



Department for
Energy Security
& Net Zero

3-8 Whitehall Place
London
SW1A 2AW
+44 020 7215 5000
energyinfrastructureplanning@energysecurity.gov.uk
www.gov.uk/desnz

Ref: EN010132

West Burton Solar Project Limited
Unit 25.7 Coda Studios
189 Munster Road
London
SW6 6AW

24 January
2025

Dear [REDACTED]

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE WEST BURTON SOLAR PROJECT

1. Introduction

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Examining Authority’s (“ExA”) report dated 8 August 2024. The ExA consisted of two examining inspectors, lead panel member Andrea Mageean and Jonathan Medlin. The ExA conducted an examination (“the Examination”) into the application submitted on 21 March 2023 (“the Application”) by West Burton Solar Project Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the West Burton Solar Project and associated development (“the Proposed Development”). The Application was accepted for Examination on 18 April 2023. The Examination began on 8 November 2023 and closed on 8 May 2024. The Secretary of State received the Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”) on 8 August 2024.
- 1.2. On 6 November 2024 the Secretary of State issued a Written Ministerial Statement (“WMS”) announcing that the statutory deadline for the decision had been reset to 24 January 2025.
- 1.3. On 19 September 2024 a consultation letter was issued by the Secretary of State to the Applicant seeking information (“the first consultation letter”). A further consultation letter was issued on 15 October 2024, requesting further information from the Applicant, Alison Olivia Brownlow and Rodger Andrew Brownlow, EDF Energy (Thermal Generation) Limited, Emma and Nicholas Hill, Neil Elliot, Network Rail Infrastructure Limited, Northern Powergrid Yorkshire PLC, Parochial Church Council of the Parish of Stow-with-Sturton, SNED Ltd, SNSE Ltd, SNSEM Ltd, The Canal and River Trust, Uniper UK Limited, Natural England, Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, Bassetlaw District Council and the Environment Agency (“the second

consultation letter”). A further consultation letter was issued on 7 November 2024 to all Interested Parties (“IPs”) inviting comments (“the third consultation letter”). A further consultation letter was issued on 22 November 2024 to the Applicant (“the fourth consultation letter”), requesting clarification on some matters.

- 1.4. The Proposed Development comprises the construction, operation, maintenance and decommissioning of a solar photovoltaic (“PV”) array generating facility, energy storage facility and associated infrastructure [ER 1.3.3]. The Proposed Development comprises three solar array sites: West Burton 1 (“WB1”), West Burton 2 (“WB2”) and West Burton 3 (“WB3”), cable routing corridors (“CRC”) between WB1 and WB2, between WB2 and WB3 and between WB3 and the Point of Connection (“PoC”) at the existing 400 kilovolt (kV) substation at West Burton Power Station [ER 1.3.3 et seq.]. The Proposed Development lies within the West Lindsey District Council (“WLDC”), Lincolnshire County Council (“LCC”), Nottinghamshire County Council (“NCC”) and Bassetlaw District Council (“BDC”) administrative areas and is wholly in England.
- 1.5. The Order, as applied for, would grant development consent for:
 - **Work No. 1** – referring to WB1 as Work No. 1A, WB2 as Work No. 1B and WB3 as Work No. 1C, each a ground mounted solar PV generating station with a gross electrical output of over 50 megawatts (MW) including solar modules fitted to mounting structures, electrical cabling, conversion units including inverters, transformers, switchgear and monitoring and control systems, communication cabling;
 - **Work No. 2** – an energy storage facility comprising battery storage cells with fire suppression system, a structure protecting the battery energy storage cells, interconnecting units including heating, ventilation, cooling and temperature management, conversion units, monitoring and control systems, electrical cabling, surface water drainage, water storage facility for firefighting and infrastructure to contain used firewater;
 - **Work No. 3** - works in connection with onsite substations, including an up to 400 kilovolts (kV) substation, and an up to 132kV substation. Includes bays, transformers, switchgear buildings and ancillary equipment, control building or container relay rooms and welfare facilities, monitoring and control systems, maintenance compounds, electrical cabling and earthworks;
 - **Work No. 4** - works at the existing 400kV National Grid substation at West Burton Power Station including busbars and connectors, a 400kV circuit breaker, current transformers, metering current transformer/voltage transformer units, line disconnectors, sealing ends and building to house feeder protection systems, metering systems and other equipment and apparatus;
 - **Work No. 5** - grid connection cables connecting the three solar farm sites to the main on-site substation at WB3 and to the existing substation at West Burton Power Station. Grid connection cable works located within the Shared Cable Corridor with the Gate Burton Energy Park and the Cottam Solar Project. Works include the provision of access tracks, drainage infrastructure, jointing bays, link boxes and communications chambers, tunnelling, boring and drilling works and temporary construction laydown areas;
 - **Work No. 6** - works associated with each of the sites including fencing, gates, boundary treatment and other means of enclosure; the provision of security and monitoring measures including CCTV columns and lighting, cameras and weather stations; landscaping and biodiversity mitigation and enhancement measures; laying down of

internal access tracks, footpaths, temporary footpath diversions; provision of drainage infrastructure, acoustic barriers and temporary construction laydown areas;

- **Work No. 7** – temporary construction and decommissioning laydown areas;
- **Work No. 8** – works to facilitate access to Work Nos. 1 to 7 and 9 to 11 including the creation of accesses from the public highway, the creation of visibility splays and works to alter the layout of streets or highways, works adjacent to highway land to facilitate the movement of abnormal loads;
- **Work No. 9** – work to create and maintain habitat management areas including fencing, gates, boundary treatment and other means of enclosure, earth works including bunds, embankments, ponds, trenching and swales, landscape and biodiversity mitigation and means of access;
- **Work No. 10** – work to create and maintain a habitat management area including fencing, gates, boundary treatment and other means of enclosure, earth works, landscape and biodiversity mitigation and means of access;
- **Work No. 11** – works to provide a permissive path from the track off Sykes Lane along Coddler Lane Belt and then south and west to re-join Sykes Lane opposite Hardwick Scrub, including fencing, gates, boundary treatment and other means of enclosure and landscaping and biodiversity mitigation and enhancement measures; and
- **Further associated development** as may be necessary or expedient for the purposes of or in connection with the Proposed Development.

1.6. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, as set out in the draft Order submitted with the Application.

1.7. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website¹ is a copy of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 3-7 of the ExA Report, and the ExA’s summary of conclusions and recommendation is at Chapter 8. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.*”].

2. Summary of the ExA’s Report and Recommendation

2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA Report under the following broad headings:

- The Principle of the Development;
- Landscape and Visual;
- Historic Environment;
- Biodiversity and Ecology;
- Transport and Access;
- Agriculture and Soils;
- Safety and Major Incidents;
- Noise and Vibration;
- Air Quality;
- Health and Wellbeing;
- Water and Flooding;
- Socio-Economic, Tourism and Recreation Effects; and

¹ [West Burton Solar Project - Project information \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/projects/nip/west-burton-solar-project/)

- Other Planning Matters.

2.2. The ExA recommended that:

- I. Based on the Application as submitted and examined (but not including the without prejudice offer to exclude solar arrays from the deer park land at Stow Park (hereafter referred to as the “Stow Park Alteration”)), the Secretary of State should withhold consent for the West Burton Solar Project Order;
- II. Based on the Stow Park Alteration, and conditional on the outcomes of the further considerations set out at ER 8.2.22, the Secretary of State should make the West Burton Solar Project Order in the form attached at Annex E of the ExA’s Report [ER 8.3.1].

2.3. This letter is intended to be read alongside the ExA’s Report and, except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA’s Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of their conclusions and recommendations.

3. **Summary of the Secretary of State’s Decision**

- 3.1. The Secretary of State has considered the ExA’s Report and all other material considerations, including written representations (“WR”), relevant representations (“RR”), responses to questions and oral submissions made during the Examination and post examination submissions received after the close of the Examination, including those received in response to the Secretary of State’s consultation letters referred to in paragraph 1.3 above, all of which have been considered and are addressed where appropriate in this decision letter below and published on the Planning Inspectorate’s National Infrastructure Planning project webpage. 351 RRs were made during the Examination in respect of the Application (with a further three in respect of the Change Request) by statutory authorities, businesses, non-governmental organisations, and individuals.
- 3.2. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that, for the Proposed Development as amended by the Stow Park Alteration, the public benefits associated with the Proposed Development outweigh the harms identified, and that development consent should therefore be granted.
- 3.3. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State’s decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”).
- 3.4. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

4. **The Secretary of State’s Consideration of the Application**

- 4.1. As the Proposed Development comprises an onshore electricity generating station with a total capacity exceeding 50MW, the Proposed Development falls within s15(2) of the 2008

Act, meets the definition of a Nationally Significant Infrastructure Project (“NSIP”) set out in s14(1) of the 2008 Act, and requires a development consent order (“DCO”) in accordance with s31 of the 2008 Act [ER 1.1.3]. Work No. 1 constitutes an NSIP and Work Nos. 2 to 11 constitute associated development.

- 4.2. During the Examination, the campaign group 7000 Acres questioned whether Work No. 2, the energy storage facility, could properly be considered associated development for the purposes of the Proposed Development, noting that it would operate in a separate segment of the energy market rather than being strictly associated with the Proposed Development [RR-001]. 7000 Acres claimed the energy storage facility being included as associated development was at odds with guidance published by the Department for Communities and Local Government, ‘Planning Act 2008: Guidance on associated development applications for major infrastructure projects’ (“the Guidance”) as the energy storage facility would be an additional source of income capable of trading power with the National Grid at night and in winter months when the solar PV panels would not be generating power and therefore should be viewed as a separate application [REP1A-021]. 7000 Acres also raised concerns that the Applicant had not provided details of the size and capacity of the energy storage facility [REP1A-021].
- 4.3. The Applicant explained that Work Nos. 2 to 11 are all directly associated with the NSIP and subordinate to it, not necessary only as a source of additional revenue, all proportionate to the nature and scale of the NSIP, all of a nature typically brought forward alongside a solar generating station and all listed in or analogous to the types of associated development listed in Annexes A and B to the Guidance, meaning that all tests for associated development have been met [REP6-013].
- 4.4. The ExA noted that the energy storage facility would support the operation of the Proposed Development by storing and exporting electricity generated, and there would therefore be a direct relationship between the principal and associated development. It further considered that, while the energy storage facility would assist in providing grid balancing services to help increase the resilience of the electricity distribution network, the primary purpose of the energy storage facility would be a direct association with the primary energy generating function of the principal development [ER 3.2.104]. The ExA considered it reasonable to assume that there would be commercial implications resulting from the energy balancing function but noted that the Guidance advises development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant and refers to the fact that it is not unreasonable that associated development should cross-subsidise the principal development [ER 3.2.105]. The ExA noted that the parameters of the energy storage facility would be limited by those set out in the Concept Design Parameters and Principles document [REP5-094] and it would not be disproportionate to the overall scale of the Proposed Development [ER 3.2.103]. The ExA, having regard to the Guidance and the 2024 National Policy Statement (“NPS”) EN-3 in relation to solar development provisions, which sets out government support for solar co-located with other functions, was satisfied that the energy storage facility would serve a legitimate storage purpose that is supported by government, would support the transition to net zero, does not have the sole purpose of an additional source of income, and can therefore appropriately be regarded as associated development [ER 3.2.106].

- 4.5. The Secretary of State agrees with the ExA that the energy storage facility constitutes associated development, noting that it will enable grid balancing and is ancillary to energy generation: as storage directly linked to operational generation and efficiency, it will help deliver a secure and reliable energy supply.
- 4.6. Sections 104 and 105 of the 2008 Act provide for the approach to be taken to decisions where one or more of the NPSs have effect (s104) and where no NPS has effect (s105). As there is no NPS in effect in respect of this Application (see paragraphs 4.6 et seq. below), the ExA concluded that the Application falls to be determined under s105 of the 2008 Act [ER 2.2.5]. The Secretary of State agrees.
- 4.7. In deciding this Application, s105(2) of the 2008 Act requires the Secretary of State to have regard to:
- Any local impact report (“LIR”) (within the meaning given by s60(3) of the 2008 Act) submitted to the Secretary of State before the deadline specified in a notice under s60(2);
 - Any matters prescribed in relation to development of the description to which the application relates; and
 - Any other matters which the Secretary of State thinks are important and relevant to the Secretary of State’s decision [ER 2.2.6].
- 4.8. The Energy White Paper, *Powering Our Net Zero Future*, was published on 14 December 2020. It announced a review of the suite of energy NPSs but confirmed that the current NPSs, designated in 2011, were not being suspended in the meantime. The ExA has referred to these 2011 NPSs as 2011 NPS EN-1, 2011 NPS EN-3 and 2011 NPS EN-5 and this letter refers to them in the same way.
- 4.9. Draft NPSs were published on 6 September 2021 and were subject to a consultation which closed on 29 November 2021. Updated versions of these draft NPSs were published on 30 March 2023 and subject to a further consultation which closed on 23 June 2023. Revised draft NPSs were released on 22 November 2023 and then designated in Parliament on 17 January 2024. The ExA has considered and referred to the November 2023 versions, now the 2024 NPSs with no substantial changes, in the ExA’s Report as 2024 NPS EN-1, 2024 NPS EN-3 and 2024 NPS EN-5 and this letter refers to them in the same way.
- 4.10. Section 1.6 of 2024 NPS EN-1 sets out the transitional provisions applicable following this review. It makes clear that for an application accepted before the designation of the 2024 NPSs, the 2011 NPSs continue to have effect as the designated NPSs.
- 4.11. While the Proposed Development does not come under a specific 2011 NPS, the ExA has taken into account 2011 NPS EN-1 as an important and relevant matter in the determination of the Application [ER 2.2.17]. 2011 NPS EN-1 notes that the generation of electricity from renewable sources other than wind, biomass or waste, is not within scope but the ExA notes that, as the Proposed Development is a generating station with a capacity of more than 50MW, the policies set out in 2011 NPS EN-1 have some bearing on the determination of this Application [ER 2.2.14]. The Secretary of State agrees.

- 4.12. The ExA considered 2011 NPS EN-3 is not an important and relevant consideration to the Proposed Development as solar energy generation is expressly excluded from the policy and the ExA concluded that it neither has effect nor should be considered as being important or relevant for the determination of this Application, which accords with the approach taken in previous large scale solar generating NSIPs such as Cleve Hill Solar Park, Little Crow Solar Park and Longfield Solar Farm [ER 2.2.22]. The Secretary of State agrees and notes this was also the approach taken in the determination of the Gate Burton Energy Park, Mallard Pass Solar Farm, Sunnica Energy Farm and Cottam Solar Project.
- 4.13. The ExA considered elements of 2011 NPS EN-5 to be important and relevant to some associated development forming part of the Proposed Development such as new substations within WB1, WB2 and WB3 (Work No. 3), works to lay high voltage cables to export power from the substation at WB3 to the existing West Burton Power Station (Work No. 5) and works to lay electrical cables to export power from the substation at WB1 to the substation at WB2 and from the substation at WB2 to the substation at WB3 (Work No. 5) [ER 2.2.24 et seq.]. The ExA confirmed that the grid connection for the Proposed Development is associated development and not considered to be an NSIP in its own right and so s.104 of the 2008 Act is not engaged [ER 2.2.25]. The Secretary of State agrees that the grid connection constitutes associated development and that the aforementioned associated development elements would come under the scope of 2011 NPS EN-5.
- 4.14. 2024 NPS EN-1 brings solar energy generation within scope of the energy NPSs and refers to the importance of solar, noting that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar [ER 2.2.26]. 2024 NPS EN-3 explicitly covers solar PV generation above 50MW as nationally significant renewable electricity generating stations and sets out detailed policy considerations [ER 2.2.27]. 2024 NPS EN-5 maintains and carries forward similar provisions to those important and relevant to this Application from the 2011 NPS EN-5 [ER 2.2.28]. The ExA considered 2024 NPS EN-1, 2024 NPS EN-3 and 2024 NPS EN-5 to be important and relevant matters for this Examination as they reflect current national policies [ER 2.2.30]. The Secretary of State considers that 2011 NPS EN-1 and EN-5 and the 2024 NPSs are important and relevant considerations in the decision making process for this Application, and addresses these where relevant within this letter.
- 4.15. The ExA has also had regard to the National Planning Policy Framework (“NPPF”) from December 2023 and the accompanying Planning Practice Guidance (“PPG”) as important and relevant matters in relation to where they raise points in respect of solar development and its impacts [ER 2.2.34]. Following the close of the Examination, at the end of July 2024, a WMS was made by the Secretary of State for Housing, Communities and Local Government, referring to boosting the delivery of renewables to meet the Government’s commitment to zero carbon electricity generation by 2030² and a consultation published on reforms to the 2023 NPPF and other changes to the planning system³ [ER 2.2.35].

² [Written statements - Written questions, answers and statements - UK Parliament](#)

³ [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](#)

Following the consultation on reforms to the 2023 NPPF, a new NPPF was published 12 December 2024. The Clean Power 2030 Action Plan was published on 13 Dec 2024 and sets out a pathway to a clean power system. The Secretary of State has considered these and does not consider that they would lead him to reach a different decision on the Application.

- 4.16. The Secretary of State has had regard to the NPSs, NPPF, PPG, relevant WMSs, LIRs submitted by WLDC, LCC, NCC and BDC, Local Development Plans (“LDPs”) environmental information as defined in regulation 3(1) of the EIA Regulations and to all other matters which are considered to be important and relevant to the Secretary of State’s decision as required by section 105 of the 2008 Act.
- 4.17. The Secretary of State agrees with the ExA’s conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Landscape and Visual (moderate negative weight) [ER 3.3 et seq.];
 - Transport and Access (neutral weight) [ER 3.6 et seq.];
 - Safety and Major Incidents (neutral weight) [ER 3.8 et seq.];
 - Noise and Vibration (neutral weight) [ER 3.9 et seq.];
 - Air Quality (neutral weight) [ER 3.10 et seq.];
 - Health and Wellbeing (neutral weight) [ER 3.11 et seq.];
 - Socio-Economic, Tourism and Recreation Effects (neutral weight) [ER 3.13 et seq.]; and
 - Other Planning Matters: waste and recycling (little negative weight) [ER 3.14 et seq.].
- 4.18. The Secretary of State has considered the following issues in further detail and has come to conclusions that are set out in the paragraphs below:
- The Principle of the Development;
 - Historic Environment;
 - Biodiversity and Ecology;
 - Agriculture and Soils;
 - Water and Flooding;
 - Other Planning Matters: climate change, cumulative effects.

The Principle of the Development

Need

- 4.19. 2011 NPS EN-1 sets out the urgent need for new low carbon energy infrastructure and, whilst the exclusion of solar from its scope is noted, sets out that the consideration of applications for development consent for energy NSIPs should start with a presumption in favour of granting consent, unless any more specific and relevant policies in the relevant NPSs clearly indicate that consent should be refused [ER 3.2.4].
- 4.20. 2024 NPS EN-1 sets out that the Secretary of State should assess all applications for development consent for the types of infrastructure covered by the NPS on the basis that the government has demonstrated that there is a need for these types of infrastructure which is urgent. 2024 NPS EN-1 refers to wind and solar as being the lowest cost ways of

providing a clean and secure source of electricity supply and sets out that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar [ER 3.2.8]. 2024 NPS EN-3 makes specific provision for solar PV projects of greater than 50MW in England and refers to solar farms typically requiring between 2 to 4 acres for each MW of output although this will vary significantly and change over time as technology evolves [ER 3.2.11]. 2024 NPS EN-3 also refers to overplanting of solar array panels so that the degradation of panel efficiency is factored in, and the grid connection is maximised across the lifetime of the development [ER 3.2.12].

- 4.21. Central Lincolnshire Local Plan ("CLLP") policy S14 supports the transition to a net zero carbon future and seeks to maximise appropriately located renewable energy generation, advising that proposals will be supported where the direct, indirect, individual and cumulative impacts are, or will be made, acceptable [ER 3.2.29]. Bassetlaw District Council Core Strategy ("BDCCS") policy DM10 states BDC will be supportive of renewable and low carbon energy proposals provided they are compatible with other policies to safeguard the built and natural environment, will not lead to the loss of high-grade agricultural land, do not result in unacceptable landscape and visual impacts and will not result in unacceptable cumulative impacts [ER 3.2.31].
- 4.22. The Applicant's need case as set out in the Environmental Statement ("ES") and its Statement of Need [APP-320] predated the designation of the 2024 NPSs. The Applicant submitted a partial review of the Statement of Need following the designation of the 2024 NPSs following Issue Specific Hearing ("ISH") 1 [Appendix B of REP1-052]. The Applicant sets out the need case in terms of the three important national policy aims of decarbonisation: net zero and the importance of deploying zero-carbon generation assets at scale; security of supply; and affordability [ER 3.2.32]. The Applicant concludes that the Proposed Development would contribute to an adequate and dependable generation mix, that larger schemes such as the Proposed Development are likely to bring about greater economic, decarbonisation and security of supply benefits than any combination of smaller independent schemes of an equivalent capacity and that without the Proposed Development there is the risk that future Carbon Budgets and Net Zero 2050 will not be achieved [APP-320].
- 4.23. ES Chapter 4: Scheme Description [APP-042] sets out that the Order Limits comprise 886.4ha of land, with the area occupied by solar PV arrays totalling around 734ha. Noting the degradation of solar panels over time, the Applicant refers to overplanting to ensure that more low-carbon power is generated at times of lower irradiation and at those times output would not be limited by the grid connection capacity [APP-320]. The Grid Connection Statement [APP-316] allows for the export of 480MW from the Proposed Development and import of up to 20MW to be stored in an energy storage facility and then exported back to the National Grid via the POC at the existing West Burton 400kV substation within the site of West Burton Power Station. The Applicant has not included a maximum limit on generating capacity in the dDCO, noting that PV technologies are developing rapidly, and the parameters of the Proposed Development would be constrained using the Rochdale Envelope approach [ER 1.3.5]. The Applicant noted this is in line with 2024 NPS EN-3 which indicates that installed export capacity should not be seen as an appropriate tool to constrain the impacts of a solar farm, instead measures such as panel size, total area and percentage of ground cover should be used to set the

maximum extent of development when determining the planning impacts of an application [ER 1.3.6].

- 4.24. The Application as submitted indicated the Proposed Development would be designed to operate for 40 years, however, during the Examination the Applicant amended the dDCO to provide for a 60-year operational life [ER 1.3.8].

Alternatives, Site Selection and Design

- 4.25. 2011 NPS EN-1 sets out that there is no general requirement to consider alternatives, however, applicants are required to include in their ES proportionate information about the main alternatives studied and reasons for the choice made including environmental, social and economic effects, including technical and commercial feasibility [ER 3.2.15].
- 4.26. 2024 NPS EN-1 sets out the importance of good design to produce sustainable infrastructure sensitive to place, including impacts on heritage, efficiency in the use of natural resources, including land use, and the energy used in the construction and operation, matched by an appearance that demonstrates good aesthetics where possible [ER 3.2.23]. 2024 NPS EN-3 refers to Government support for solar co-located with other functions, including agriculture or storage, to maximise the efficiency of land use and states that, while land type should not be a predominating factor in determining the suitability of the site location, applicants should where possible avoid the use of Best and Most Versatile (“BMV”) agricultural land [ER 3.2.18 et seq.].
- 4.27. ES Chapter 5: Alternatives and Design Evolution [APP-043] sets out a four-stage approach to site selection. Stage 1 included preliminary identification of an area of search within 5km radius from the PoC at West Burton Power Station, with the Applicant securing an offer by National Grid for 480MW grid connection [APP-043]. For a 480MW connection, the Applicant was looking for a flat site with a southerly aspect and size of approximately 10% larger than the connection offer, up to 1100ha in this case, which would allow for accommodation of additional mitigation measures and other constraints that may become known as the design developed [APP-043]. The search area was incrementally expanded to 15km, which is considered by the Applicant to be a viable cable connection distance [APP-043]. Stage 2 included mapping of planning, environmental and spatial constraints, which resulted in the exclusion of areas from the area of search in Stage 1, and in Stage 3 key operational criteria such as site size, land assembly and site topography were applied to refine the unconstrained areas identified at Stage 2 [APP-043]. In Stage 3, brownfield land, commercial rooftops and alternative locations proposed by consultees were considered, however no sites that met the minimum individual site size threshold (40ha) or network of sites area (1100ha) were identified within the 15km search area [APP-043]. In Stage 4, potential development area 1, located on Grade 4 and 5 agricultural land, identified in Stage 3, was assessed against planning, environmental and other operational assessment indicators, but proved unsuitable due to significant constraints [APP-043]. In Stage 5, the site search focused on Grade 3 agricultural land, with local agents contacted to provide potentially willing landowners with large-scale land holdings within the 15km search area [APP-043]. These areas were assessed against the same detailed range of planning, environmental and operational considerations used in Stage 4 and four sites, West Burton 1-4 were identified. West Burton 4 was later removed to reduce the impact on BMV land [APP-043].

- 4.28. The Applicant concluded that the area selected for the Proposed Development was the preferred location as it maximised the utilisation of low grade BMV land, was not located within any internationally or nationally designated biodiversity sites or Areas of Outstanding Natural Beauty, avoids direct physical impact on designated heritage assets, is at low risk of flooding, has good transport links, has excellent topographical characteristics, good irradiation levels and a minimal number of landowners [APP-043 5.5.45].
- 4.29. The Applicant did not consider any alternative types of low-carbon electricity generation, but it did not consider that the Order limits would be suitable for other forms of renewable generation at the same scale as the Proposed Development [APP-043 5.6]. The Applicant also did not consider a ‘no development’ scenario in detail as it would not deliver the additional electricity generation and energy storage proposed [APP-043 5.2.11].
- 4.30. The Applicant concluded in the Planning Statement [REP7-020] that no suitable alternatives had been identified in terms of alternative sites, technologies, site layouts and cable routing. The Applicant further concluded on its approach to good design, setting out that the Proposed Development meets the requirements and objectives of relevant policy; an iterative design development process was followed and informed by stakeholder engagement and a design champion has led the approach from the initial stages and would continue to perform the same function through the post-consent detailed design stages [ER 3.2.56 et seq.].

Examination of Need

- 4.31. Overall, parties agree that there is an urgent need to deliver low-carbon energy generation involving a range of technologies [ER 3.2.61]. WLDC recognise that the principle of the need for large scale solar projects is established in national planning policy [REP7-014]. However, WLDC consider that the Proposed Development does not accord with 2011 NPS EN-1, 2011 NPS EN-3 and CLLP policies due to site selection and non-efficient use of land, substantial harm to a Scheduled Ancient Monument (“SAM”), being the Medieval bishop’s palace and deer park, Stow Park (“the Stow Park SAM”), landscape and visual effects and insufficient information relating to impact on agriculture [REP7-014]. WLDC stated that the site layout was contrary to policy, resulting in highly inefficient use of land with multiple ad-hoc areas of infrastructure [REP7-014]. WLDC also raised concerns regarding the 60-year lifetime, stating it did not accept assessed impacts would remain unchanged from the 40-year assessment in the ES [REP7-014]. LCC maintains its position to object to the loss of any BMV land to facilitate the development and therefore cannot agree with the principle for the Proposed Development [REP7-010]. In the joint Statement of Common Ground (“SoCG”) with NCC, BDC and the Applicant [REP6-038] it is agreed that NCC and BDC support the principle of the need for large scale solar projects and there are no areas of disagreement regarding site selection and the Proposed Development’s design.
- 4.32. IPs suggested that not approving large-scale schemes would result in discouraging future applications and provide time for the evolution of greater co-ordination and planning of the energy system, noting there is no explicit target for large-scale ground mounted solar development [REP3-049]. Many IPs referred to the tension between food security and energy security and noted that large-scale solar is referred to in the NPSs as being sought “*mainly on brownfield, industrial and low/medium grade agricultural land*” [for example

REP3-049; RR-245]. WLDC [REP5-042] and LCC [REP5-047] considered that a WMS laid in 2015 (“the 2015 WMS”) relating to the need for justification for the use of BMV land with “*the most compelling evidence*” was still Government policy and should carry ‘significant weight’ while the Applicant [REP5-039] stated that the WMS should be read in conjunction with the 2024 NPSs and that, nonetheless, the 2015 WMS test has been met as non-BMV land has been used as far as practicable, and compelling evidence provided as to the need to include a small element of BMV land.

- 4.33. The ExA was clear that there is a compelling case for the delivery of renewable energy at pace and notes that solar generation will play an important role as part of the technology mix, noting it can be deployed with relative speed [ER 3.2.77]. The ExA gave significant weight to 2024 NPS EN-3 in setting out the critical national priority for the provision of such infrastructure and found that the 2015 WMS provisions must be fully considered in the light of these more up to date Government policy provisions [ER 3.2.77].
- 4.34. IPs further raised that solar is an inefficient source of power compared to alternatives [for example REP3-060; REP1A-026]. The Applicant referred to policy support in the 2024 NPSs for solar as part of a mix of technologies to deliver a low-carbon, secure and affordable UK energy supply [ER 3.2.79]. The Applicant also referred to Figures 8.1 and 8.2 of the Statement of Need [APP-320] which demonstrate that, over longer time periods, wind and solar are likely to complement each other, alongside other technologies, in the provision of a reliable supply. The Applicant further set out that the UK’s average solar load factor (11%) means that solar generation produces much more energy per hectare than biogas and is similar to onshore wind in terms of generation [APP-320]. Further, in the event of curtailment, the energy storage facility would provide an additional tool to store any excess generation for dispatch to the system when it is needed [REP3-035].
- 4.35. The ExA considered that the policy case for solar generation is clear and the provisions in the 2024 NPSs recognise both the benefits and constraints of solar generation in the UK, when it is considered as part of a sustainable mix of future renewable energy sources [ER 3.2.87].
- 4.36. IPs questioned the electricity generating capacity: noting that on the basis of 10% yield, the annual generation would be 438,000 megawatt hours (“MWh”) which only offers a 0.15% contribution to national need [REP3-060]. With overplanting, the Applicant estimated in January 2024 that there would be 620MW of installed capacity [REP3-034], which is consistent with the range anticipated in 2024 NPS EN-3 as between 2 to 4 acres per MW of output [REP1-050] and the Applicant estimated a generating capacity over 60 years of 31,425,614 MWh [REP3-038].
- 4.37. IPs further raised the issue of congestion in the National Grid connections process, meaning that the likely connection date for the Proposed Development would be November 2028, while construction works would be complete by the end of 2026 [RR-001]. The Applicant indicated that they would work with National Grid to confirm whether an earlier connection date would be possible [REP1-050].
- 4.38. The ExA considered that the Proposed Development would fall within the parameters set out in the 2024 NPSs in terms of generating capacity and scale, and its generating capacity and scale would not, in principle, be unreasonable [ER 3.2.95].

Examination of Alternatives, Site Selection and Design

- 4.39. WLDC raised concerns regarding the absence of a clear set of objectives or principles in the site selection process: stating that good design principles were not embedded and raising issues with the fragmentation of the project into spatially separate parcels resulting in greater harmful impacts [REP7-015]. The Applicant referred to their detailed assessment methodology and stated that the chosen sites were located close enough to the PoC to provide a viable scheme [ER 3.2.109].
- 4.40. IPs questioned the need for a high voltage grid connection, noting that solar power is generated at low voltages, and suggested that the PoC as a starting point for the site location undermines the breadth of alternatives considered [for example RR-001; REP4-089; REP5-051]. The Applicant stated that there are merits in connecting to the National Grid as opposed to decentralised connections which have smaller capacities [APP-320]. IPs suggested that the overall sustainability impact of displacing productive agricultural land had not been considered [RR-001]. The Applicant suggested that the land can be retained in agricultural use during the operational phase of the Proposed Development with uses such as sheep grazing [ER 3.2.114].
- 4.41. The ExA considered that the Applicant had adequately explained the site selection methodology and it was reasonable to use the PoC as a starting point and to seek to maximise the grid connection opportunity that had been secured here [ER 3.2.116].
- 4.42. IPs further referred to the need to give consideration to other brownfield, industrial or rooftop locations [REP3-050]. The Applicant set out that these opportunities were explored, however nothing suitable at the scale required was identified [AS-004], further noting that brownfield developments are unlikely to meet the national need for solar, as are decentralised and community energy systems [APP-320].
- 4.43. IPs further raised that wind or nuclear generation would be a higher yielding alternative energy option [REP1-051], further suggesting that the 130 gigawatts of solar in the queue for grid connections was contributing to delays for nuclear or wind schemes [REP4-116]. The Applicant set out the Government's support for solar deployment and that they were not aware of any proposed wind or nuclear schemes likely to connect at the PoC at West Burton Power Station, as such the Proposed Development is not contributing to any delays to securing other renewable energy sources [REP1-051].
- 4.44. IPs raised that biomass could be an alternative: the land earmarked for solar already produces this source of renewable energy [REP1A-031]. The Applicant set out that solar produces more energy per hectare than other technologies and enables recovery of soil health and, further, that making this land unavailable to produce energy crops would not have a material effect on the UK's biomass industry or strategy [REP3-034].
- 4.45. The ExA considered that alternative technologies had been considered in a proportionate manner [ER 3.2.123].
- 4.46. IPs raised concerns around the fragmented layout of the Proposed Development: WLDC and LCC both suggested that the dispersed nature of the solar array sites would have the opposite effect to meeting the policy requirements to minimise impacts and this was an outstanding issue in both SoCGs [ER 3.2.125]. WLDC and IPs further raised concerns about the lack of information explaining the application of good design principles [REP1A-

004]. After ISH5, the Applicant updated the Concept Design Parameters and Principles document to commit to the inclusion of a design champion role in the delivery of the Proposed Development [REP5-094].

- 4.47. The ExA considered that the Applicant had demonstrated a moderate awareness of good design principles: the degree to which these are successful in mitigating the adverse impacts associated with a scheme of this scale was considered, where relevant, under each of the individual planning topics [ER 3.2.132].
- 4.48. Finally, IPs expressed concerns around the 60-year operational life of the Proposed Development and the increase in environmental effects from the 40-year assessment in the ES, with WLDC challenging the Applicant's conclusion that the assessed impacts would remain unchanged [REP7-014]. The Applicant set out its methodology and conclusions in the Review of Likely Significant Effects ("LSE") at 60 Years [REP1-060].
- 4.49. The ExA noted that, while 2024 NPS EN-3 refers to a typical upper limit of 40 years, there may be differing time periods of operation. The ExA further considered the environmental implications of the proposed 60 year operational life of the Proposed Development, including the adequacy of the ES assessment, under each of the individual planning topics [ER 3.2.135].

The ExA's Conclusion on Need

- 4.50. The ExA noted that current policy provisions establish the urgent need for renewable energy generation of all types, such as large scale solar and therefore the Proposed Development would make a meaningful contribution to meeting this need [ER 3.2.136]. The ExA concluded that the Proposed Development would be in general accordance with the provisions of 2011 NPS EN-1 relating to need and has in principle support from local policies seeking to support renewable energy provisions and the transition to a low carbon future [ER 3.2.136 et seq.].
- 4.51. The ExA further concluded that, while the Proposed Development would be considerably larger than the 'typical' 50MW solar farm referred to in 2024 NPS EN-3, the principle of maximising the use of the grid connection capacity is appropriate, subject to environmental impacts being acceptable [ER 3.2.143]. The ExA also concluded that the 60-year proposed operational period was not unreasonable in principle [ER 3.2.145].
- 4.52. The ExA gave very great weight to the principle of the Proposed Development in terms of the renewable energy and net zero transition benefits it could deliver [ER 3.2.146].

The ExA's Conclusion on Alternatives

- 4.53. The ExA concluded that the methodology used for the site selection and the consideration of alternatives, including different technologies, is reasonable and proportionate and complies with the requirements of 2011 NPS EN-1, 2024 NPS EN-1 and the EIA Regulations [ER 3.2.141]. Further, the ExA concluded that the approach to site layout and design has, in general terms, sought to manage and mitigate environmental impacts, noting 2011 NPS EN-1 which sets out it will not be possible to develop necessary amounts of energy infrastructure without some significant residual adverse impacts [ER 3.2.142]. The ExA noted that much of the detailed design would be subject to post-consent approval but was content that the ES assesses the worst-case scenario and allows adequate

consideration of whether the Proposed Development would be acceptable in environmental terms, complying with the Rochdale Envelope approach set out in Nationally Significant Infrastructure Projects - Advice Note 9 [ER 3.2.144].

The Secretary of State's Conclusion on Need and Alternatives

- 4.54. The Secretary of State considers that climate change and the reduction in greenhouse gas ("GHG") emissions is an intrinsic part of the need case and therefore concludes on need, and alternatives, including climate change, below from paragraph 4.75.

Climate Change

- 4.55. 2011 NPS EN-1 sets out policy relating to reducing GHG emissions and meeting legally binding commitments specified in the Climate Change Act 2008, further noting that consideration of climate change adaptation and resilience is required in the ES [ER 3.14.4]. 2024 NPS EN-1 further requires the applicant to provide a GHG assessment as part of its ES, noting that the Secretary of State must be satisfied that GHG emissions have been considered across each phase of the development and reasonable steps taken to reduce emissions during construction and decommissioning [ER 3.14.5].
- 4.56. CLLP policies S14 and S16 refer to the commitment to supporting the transition to a net zero carbon future and BDCCS policies DM4 and DM10 provide clear support for low carbon energy infrastructure developments where they meet policy criteria regarding the natural environment, character and distinctiveness of the area and agricultural land.
- 4.57. The Applicant's case on climate change is set out in ES Chapter 7: Climate Change [APP-045] and updated in Revision A [REP1-012] and, in line with EIA Regulations, consideration has been given to a lifecycle GHG impact assessment, climate change resilience review and an in-combination climate change impact assessment.
- 4.58. The Applicant lays out embedded mitigation measures in the outline Construction Environmental Management Plan ("oCEMP") [REP6-021] and outline Construction Traffic Management Plan ("oCTMP") [REP7-005] such as adopting the Considerate Constructors Scheme, reducing the creation of waste and enabling re-use and recycling where reasonably practicable and encouraging lower carbon modes of transports.
- 4.59. The Applicant set out that any increase or reduction in GHG emissions is considered significant in relation to the impact on the baseline, the global climate, which has a high sensitivity to increases in GHG emissions [REP1-012]. The Applicant noted that traditional EIA Criteria are therefore not considered a suitable method for determining the magnitude of significance, as highlighted by IEMA guidance on Assessing GHG Emissions and Evaluating their Significance, and therefore the Applicant has put GHG impacts into context in terms of their impact on the UK's carbon budgets [REP1-012]. The Applicant laid out that, for the purpose of this assessment, minor significance refers to emissions of less than 1% of the carbon budget and major significance refers to emissions of more than 1% of the carbon budget, further noting that minor is not considered a significant effect in EIA terms and major is considered a significant effect in EIA terms [REP1-012].
- 4.60. During construction, the manufacture and supply of PV panels and batteries would be the largest source of GHG emissions. The total worst-case construction emissions are estimated as 130,815 tonnes of CO₂ (tCO₂), which is less than 1% of the annualised 4th

carbon budget [REP1-012]. The magnitude of effect is considered low, and of minor adverse significance, which is not significant in EIA terms [REP1-012].

- 4.61. During operation, the replacement of batteries and PV panels would be the largest source of GHG emissions. The total operational GHG emissions over 40 years is estimated at 37,380 tCO₂ [REP1-012]. The magnitude of effect is considered low, with a major beneficial significant effect when compared with other types of electricity generation [REP1-012].
- 4.62. The Applicant noted a high level of uncertainty with regard to decommissioning and estimated 12,531 tCO₂, further noting that it is unknown what the effects will be 40 years in the future, but it is expected that the magnitude of effect will be low and of minor adverse significance, which is not significant in EIA terms [REP1-012].
- 4.63. The Applicant estimates energy generation of 583,000 MWh in the first year of operation and, taking account of degradation, a total energy generation figure of 21,956,988 MWh over the 40-year assessed lifetime [REP1-012]. Based on this energy generation figure and total construction and operational emissions of 169,532 tCO₂, the Applicant calculated a carbon intensity of 7.72 grams CO₂ equivalent per kilowatt hour (gCO₂e/kWh) [REP1-012]. The Applicant compared this figure with Combined Cycle Gas Turbine (“CCGT”) power stations, nuclear, offshore wind and onshore wind and found that it compared favourably with fossil fuels. The only other viable use of the land would be onshore wind which would have a slightly lower but comparable carbon intensity of 7 to 20 gCO₂e/kWh [REP1-012].
- 4.64. The Applicant calculated the savings of the scheme year on year compared with the existing UK grid and, over the 40-year assessed lifetime, found there would be a reduction of 3,981,049 tCO₂ from the Proposed Development compared to a scenario without the Proposed Development [REP1-012].
- 4.65. The Applicant considered that it had suitable embedded mitigation measures to increase the resilience of the Proposed Development to climatic changes and these would be an adequate response to the projected climate change impacts [REP1-012].
- 4.66. Further, the Applicant acknowledged that cumulative GHG emissions would likely arise due to other planned developments and considered that there were not anticipated to be any significant cumulative effects as a result of the Proposed Development with Cottam, Gate Burton and Tillbridge solar projects during either construction or operation and that, in terms of climate change resilience, the cumulative effect would be major beneficial as the combined effect of the renewable energy would serve to counter the effects of climate change [REP1-012].
- 4.67. The Applicant assessed the increase from a 40-year operational period to 60-years but did not provide updated calculations of GHG emissions as the existing calculations were considered sufficient to demonstrate that the 60-year lifespan would have a positive effect on GHG emissions and any additional emissions from the extended operational use would be offset by the negated emissions from renewable energy generation [REP1-060]. The Applicant concluded that all conclusions (excepting flood risk where additional modelling will be required when the datasets are available from the Environment Agency (“EA”)) and assessments of significance from the ES chapter were unchanged with the increase in operational lifetime [REP1-060].

Examination of Climate Change

- 4.68. 7000 Acres considered that the Applicant's lifetime assessment was overstated in terms of decarbonisation benefits, did not consider the degree to which curtailment would occur at periods of excess renewable generation and did not consider the impact of displacing crops for biofuels with solar energy [REP1A-026]. 7000 Acres further raised that crop-derived biofuels can be stored long term in gas and liquid forms which would provide much greater flexibility than solar [REP5-051].
- 4.69. The Applicant responded that assumptions made within the ES were reasonable and provide a useful indication of the decarbonisation offered and stated the assertion of curtailment being a disbenefit was incorrect [REP3-035]. The Applicant stated that the carbon savings as a result of crop displacement had not been calculated as this would also require the wider assessment of emissions relating to harvesting, transport and processing, but the Applicant's view was that it would not alter the conclusions of the ES in that the Proposed Development would result in fewer emissions when compared to fossil fuel use regardless of existing land use [REP1-012]. The Applicant set out that a solar farm requires less land to produce a kWh of electricity compared to energy crops and the associated change in emissions is not considered significant [REP5-039]. Further, the Applicant stated that by connecting to the National Grid the electricity generated by the Proposed Development would be immediately accessible, a benefit over crop-derived biofuels, or could be stored in the energy storage facility for later use [REP6-047].

Cumulative Effects for Climate Change

- 4.70. The Applicants for Gate Burton, Cottam, West Burton and Tillbridge solar projects produced a Joint Report on the Interrelationships between NSIPs, with Appendix E laying out a Review of Cumulative Effects [REP6-015]. For climate change, Gate Burton Energy Park and Tillbridge Solar Project concluded that there would be no significant cumulative effects for climate change, while the Proposed Development and Cottam Solar Project identified major beneficial cumulative effects in terms of climate change resilience [REP6-015].
- 4.71. The Applicants for the Proposed Development and Cottam stated that this approach takes into account professional judgement and interpretation of the IEMA guidance, stating that the cumulative beneficial effect has been identified as the four solar projects being developed at the same time would result in a quicker reduction in emissions from legacy sources than a single project alone [REP6-015].

The ExA's Conclusion on Climate Change

- 4.72. The ExA considered that the Proposed Development would meet the requirements of 2011 NPS EN-1, 2024 NPS EN-1 and LDP policies [ER 3.14.28].
- 4.73. The ExA concluded that the Applicant's approach to climate assessment was based on reasonable assumptions and was proportionate [ER 3.14.25]. The ExA concluded that there would be a significant beneficial effect during operation of the Proposed Development, due to the displacement of GHG emissions from other sources of fossil fuel generation [ER 3.14.26]. The ExA therefore agreed that the net carbon benefit of the Proposed Development would be a material change to the UK's carbon emissions leading to a major beneficial effect [ER 3.14.27]. The ExA agrees that differences of interpretation

relating to cumulative effects merit a more conservative approach to the consideration of cumulative benefits [ER 3.14.25].

- 4.74. The ExA concluded that the overall benefit of the contribution of the Proposed Development towards renewable energy carries very great weight in the planning balance [ER 3.14.27].

Stow Park Alteration

- 4.75. The Secretary of State wrote to the Applicant on 19 September 2024 requesting information on the Stow Park Alteration proposed towards the close of the Examination. The Secretary of State issued a letter to all IPs on 7 November 2024 requesting comment on the Stow Park Alteration and any other information provided during the second consultation. The Secretary of State has considered this information and consultation responses.
- 4.76. The Applicant responded to the first consultation letter and the Secretary of State has considered the Applicant's Cover Letter [C1-012] which laid out that the removal of the solar panels from the deer park land at Stow Park SAM would equate to a loss of 104.145MW (Approximately 20% of the installed capacity) and would result in a significant reduction in the generating capacity of the Proposed Development. The Applicant states that this reduction would require this amount of generation to be consented and constructed elsewhere pre-2030 to meet current targets and this is the equivalent of an additional NSIP or two additional 49.9MW sites under the Town and Country Planning Act 1990 ("the TCPA 1990").
- 4.77. In the Applicant's Response to the Secretary of State's Request for Information [C1-014], the Applicant states there would be no change to the significance of environmental effects in terms of climate change, however, does state that the removal of panels from the deer park land at Stow Park SAM will reduce the contribution of the Proposed Development to the national decarbonisation targets. The Applicant concluded that, in such an event of the Stow Park Alteration being granted by the Secretary of State, the case and need for the Proposed Development remains the same.

The Secretary of State's Conclusion on Need and Alternatives, including Climate Change

- 4.78. The Secretary of State considers that, for this development, climate change and the reduction in greenhouse gas emissions is an intrinsic part of the need case and therefore will not ascribe a separate weighting for climate change. The final weighting for need and alternatives, including climate change, is given below in paragraph 4.87.
- 4.79. The Secretary of State has considered the Applicant's methodology, noting that standard EIA significance criteria are not considered appropriate, and considers that the Applicant's approach to contextualisation with regard to carbon budgets is appropriate. The Secretary of State agrees with the ExA's conclusion that the Applicant's approach to climate assessment was based on reasonable assumptions and there would be a net carbon benefit from the Proposed Development due to displacement of GHG emissions from other sources of fossil fuel generation. The Secretary of State considers it reasonable to conclude that there will be no change to the significance of environmental effects in terms of climate change as a result of the Stow Park Alteration, noting that the net carbon benefit will still be a major beneficial effect.

- 4.80. The Secretary of State considers that comparison to a counterfactual CCGT facility is an inappropriate baseline, noting that 2011 NPS EN-1 requires all combustion power stations with a capacity over 300MW to be constructed Carbon Capture Ready, and he therefore does not consider it viable to use unmitigated emissions as a baseline any longer. However, the Secretary of State notes that the Applicant also compared the carbon intensity of the Proposed Development to that of nuclear and offshore and onshore wind. The Secretary of State also notes the savings of the Proposed Development compared to the current UK grid. The Secretary of State, with reference to the carbon budget contributions from the Proposed Development, the carbon intensity of the Proposed Development as compared to the UK grid average and other methods of renewable generation, and all other relevant information within the Applicant's ES, is satisfied that the Proposed Development, with Stow Park Alteration, would result in considerable carbon savings compared to the UK grid average and would support the trajectory to net zero.
- 4.81. The Secretary of State agrees with the ExA that there should be a more conservative approach to the cumulative benefits in terms of climate change, and concludes that, while there is benefit to the solar projects being developed at the same time and faster decarbonisation of the grid, the effect would not be significant.
- 4.82. The Secretary of State considers that the Proposed Development, with Stow Park Alteration, would generally accord with policy requirements relating to need and climate and that the consideration of alternatives is reasonable and proportionate. The Secretary of State notes the Applicant's efforts to reduce the extent of BMV land affected by the Proposed Development and further notes that this proportion will reduce further as a result of the Stow Park Amendment (see paragraph 4.263 et seq).
- 4.83. The Secretary of State considers it appropriate that the parameters of the Proposed Development, with the Stow Park Alteration, would be constrained by measures other than export capacity, in the event that PV solar technologies improve in efficiency.
- 4.84. The Secretary of State considered the Review of LSE at 60 Years [REP1-060] and asked the Applicant for a revised version in the second consultation letter, noting that some of the information wrongly related to the Cottam Solar Project. The Secretary of State considered this revised version [C2-020] and is now satisfied that the environmental impacts for 60 years have been fully considered and this information is sufficient under the EIA Regulations. The Secretary of State agrees with the ExA and is satisfied that a 60-year lifetime is appropriate.
- 4.85. The Secretary of State notes that the Grid Connection Statement provides for 480MW export to the Grid and notes the Applicant's calculations in April 2024 of 522MW installed capacity for the total Proposed Development [REP6-049] [ER 3.4.125]. With the Stow Park Alteration, the Applicant calculated a loss of 104.145MW from this installed capacity, approximately a 20% reduction [ER 3.4.124]. The Secretary of State considers that, although the Stow Park Alteration results in a reduction in electricity generating capacity, the Proposed Development with Stow Park Alteration still contributes positively to the trajectory to net zero.
- 4.86. The Secretary of State notes that paragraph 3.2.3 of 2011 NPS EN-1 states that "the weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the

need for a particular type of infrastructure”. The Secretary of State has, therefore, considered whether there is any reason why he should not attribute great weight to the Proposed Development’s contribution to meeting the identified need in this case. The Secretary of State concludes that the Proposed Development will make a substantial contribution to meeting the urgent need for utility scale solar PVs, and result in considerable carbon savings, supporting the trajectory to net zero.

- 4.87. The Secretary of State considers that, notwithstanding the reduced electricity generating capacity from the removal of solar panels from the deer park land at Stow Park SAM, that the benefit of the Proposed Development, with the Stow Park Alteration, towards renewable energy and net zero carries very great weight in the planning balance.

Historic Environment

- 4.88. 2011 NPS EN-1 states that applicants should provide a description of the significance of the heritage assets and likely archaeological features that may be affected by the Proposed Development and the contribution of their setting to that significance, which should be used to avoid or minimise conflict between the conservation of that significance and proposals for development [2011 NPS EN-1 5.8.8].
- 4.89. 2011 NPS EN-1 advises that there “*should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building park or garden should be exceptional. Substantial harm to or loss of designated assets of the highest significance, including Scheduled Monuments; registered battlefields; grade I and II* listed buildings; grade I and II* registered parks and gardens; and World Heritage Sites, should be wholly exceptional*” [2011 NPS EN-1 5.8.14].
- 4.90. Further “*Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset the IPC should refuse consent unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm.*” [2011 NPS EN-1 5.8.15].
- 4.91. 2011 NPS EN-1 also refers to impact on setting, stating that the decision maker should weigh any negative effects against the wider benefits of the application and the greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval [2011 NPS EN-1 5.8.18].
- 4.92. Similar policy is carried into 2024 NPS EN-1. 2024 NPS EN-3 states “*as the significance of a heritage asset derives not only from its physical presence but also from its setting, careful consideration should be given to the impact of large-scale solar farms which depending on their scale, design and prominence, may cause substantial harm to the significance of the asset*” [2024 NPS EN-3 2.10.118].

- 4.93. CLLP policy S57 sets out that development should protect, conserve and seek opportunities to enhance the historic environment and that in instances where the significance of a heritage asset would be affected, the applicant would be required to provide a clear justification for the works so that the harm can be weighed against the public benefits [ER 3.4.10]. CLLP policy S57 also sets out that development affecting archaeological remains, whether known or potential, designated or undesignated, should take every practical and reasonable step to protect and enhance their significance, wherever possible ensuring the perseveration of archaeological remains in situ [ER 3.4.12].
- 4.94. ES Chapter 13: Historic Environment [APP-051] sets out the cultural heritage baseline conditions, an assessment of the likely effects upon the cultural heritage resource, proposed mitigation strategies and cumulative impacts. A Cultural Heritage Position Statement (“CHPS”) was also submitted as part of the SoCG with LCC [REP7-010] at the end of the Examination.

Study Area and Assessment Methodology

- 4.95. For non-designated heritage assets, a 1km study area around each of the West Burton sites was used to inform the ES while a 250m study area was used for the cable route corridors, the Applicant noting that this smaller study area was considered sufficient to provide an assessment of known archaeological remains within the cable route corridor [APP-051]. For non-designated historic buildings, a 250m study area around each of the West Burton sites was used.
- 4.96. For designated heritage assets, Historic England (“HE”) highlighted the following sites and settings in its Scoping Response: the Scheduled Broxholme medieval settlement and cultivation remains (NHLE 1016797), the Scheduled Deserted village of North Ingleby (NHLE 1003570) and the Scheduled Medieval bishop’s palace and deer park, Stow Park (“Stow Park SAM”) (NHLE 1019229) [APP-051]. The Applicant used a study area of 5km around each of the West Burton sites for assets of the highest significance, 2km for Grade II Listed Buildings and 500m around the cable route corridors [APP-051].
- 4.97. The Applicant found a variety of non-designated assets: table 13.9 to table 13.14 lay out the gazetteer of archaeological remains across the sites and cable route corridors [APP-051]. The Applicant identified 17 Scheduled Monuments within the combined 5km study area surrounding the West Burton 1, 2 and 3 sites, none of which are located within the Order Limits and three Scheduled Monuments within the 500m study areas of the cable route corridor [APP-051]. The Applicant identified 25 Grade I and Grade II* Listed Buildings within the 5km study area, four Conservation Areas within the 5km study area, no Registered Parks and Gardens within the 5km study area, 54 Grade II Listed Buildings within the 2km study area around each of the West Burton sites and 19 Listed Buildings in the 500m study area around the cable route corridors [APP-051].
- 4.98. Embedded mitigation measured include the use of concrete feet, removal of panels from sensitive areas should it not be possible to use concrete feet, optional use of lower fixed rather than tracker panels, landscape planting to provide screening and preservation by record to off-set potential impacts to buried archaeological remains [ER 3.4.21].

Effects during Construction

- 4.99. During construction, the Applicant found there would be a range of impacts on non-designated archaeological remains, noting that activities such as the installation of panels and other infrastructure have the potential to have an adverse, permanent and irreversible impact upon buried archaeology [APP-051]. Most of the effects range from neutral to slight adverse, and therefore not significant, but there is potential for moderate or large adverse effects, significant in EIA terms, to occur at a few receptors [APP-123]. Further informative trenching and 'strip, map and sample' excavation is proposed by the Applicant as mitigation; however this would not change the significance of effects in the worst cases [APP-051].
- 4.100. During construction, there would be no direct, physical impacts to Listed Buildings and non-designated historic buildings and at most slight adverse effects [APP-123]. During construction, there would be neutral or slight adverse effects on non-designated historic landscapes [APP-123].
- 4.101. During construction, the Applicant found there is potential for slight adverse effects at four Scheduled Monuments and up to moderate adverse effects at the Stow Park SAM which would be significant in EIA terms [APP-123].

Effects during Operation

- 4.102. The Applicant found there would be neutral to large beneficial effects on non-designated archaeological remains, due to them being taken out of the agricultural cycle of regular ploughing [APP-051]. There would be at most slight adverse effects on Listed Buildings and non-designated historic buildings, in most cases reducing to neutral by Year 15 due to landscape planting providing screening [APP-123]. There would be neutral or slight adverse effects on most non-designated historic landscapes, with four experiencing moderate adverse effects [APP-123].
- 4.103. Post mitigation, the Applicant found there would be slight adverse effects at the Roman villa west of Scampton Cliff Farm ("Roman villa SAM") and large adverse effects at the Stow Park SAM which would be significant in EIA terms [APP-123].

Effects during Decommissioning

- 4.104. The Applicant originally expected decommissioning to occur no earlier than 40 years after the commencement of operation of the Proposed Development: a Decommissioning Environmental Management Plan ("DEMP") will be prepared which is referred to in the outline Decommissioning Strategy ("oDS") and would be a requirement of the DCO [APP-051]. There is the potential for impacts to archaeological remains and the historic landscapes but detailed mitigation strategies would be included in the DEMP to ensure that any decommissioning effects would not be significant [APP-051]. Considering the mitigation of screening effects of the landscape proposals which would become effective by year 15 of the operational phase, the expected effects during decommissioning are slight adverse effects at some non-designated historic buildings, slight adverse effects at the Roman villa SAM and moderate adverse effects at the Stow Park SAM [APP-051]. Post decommissioning, in the case of Scheduled Monuments, Listed Buildings and non-designated historic buildings a reversal of operational impacts would lead to neutral effects [APP-051].

Cumulative Effects

- 4.105. In general terms, the Applicant stated there will be cumulative effects from each of the four schemes, Gate Burton, Cottam, West Burton and Tillbridge solar projects upon the overall archaeological resource in the local area, even when taking into account embedded and additional mitigation [APP-051].
- 4.106. The only significant effect identified, post mitigation, as a result of the Proposed Development, is due to impacts to the setting of the Stow Park SAM, however this would not experience any significant cumulative effects from any of the other NSIP schemes [APP-051].
- 4.107. There would be cumulative effects at the Roman villa SAM where views from the Lincoln Cliff contribute to the significance of the asset: the Applicant states that if all NSIP schemes were consented and constructed then the slight adverse effects identified as a result of the Proposed Development would increase to moderate adverse, and therefore significant, effects [APP-051].

Examination of Historic Environment

The Archaeological Investigations Undertaken by the Applicant

- 4.108. LCC and NCC were represented by their respective County Archaeologists and produced a CHPS as part of the SoCG with LCC [REP7-010]. LCC and NCC agreed that the Applicant had undertaken full and detailed desk-based assessments that had been used to inform the intrusive field evaluations and detailed mitigation strategy, however LCC and NCC deferred to HE to comment on the quality of geo-archaeological aspects [REP7-010].
- 4.109. Concerns regarding the extent of trial trenching were raised in the LIR's from both NCC [REP1-003] and LCC [REP1A-002]. The Applicant set out that the evaluation trenching within the solar sites comprises an overall sample of 0.36% and within the shared cable route corridor comprises 0.65% [APP-120]. At deadline 4, NCC and LCC set out that adequate trenching has only taken place across 21% of the site and therefore this part can be effectively mitigated, with 79% remaining without effective mitigation [REP4-078]. Due to, in their view, insufficient trial trenching for the remainder of the site, NCC and LCC were unable to agree site-specific mitigation options for the solar sites or cable routes [REP7-010]. NCC and LCC stated that non-intrusive survey is not sufficient to identify the archaeological potential of the development area and that a programme of evaluation trial trenching that covers a 2% (plus either 1% or 2% contingency) area sample of the whole scheme is required [REP7-010].
- 4.110. HE shared the concerns that large areas had not been subject to trial trenching, stating that it would be preferable to address additional trenching pre-consent but that a phase of additional conditioned trenching post-consent would be the next best option, but set out their position that matters relating to this should be discussed and agreed with the County Archaeologists [REP6-042]. The Applicant maintains that extensive archaeological baseline assessment had been undertaken which had provided enough information to inform the Application and a robust mitigation strategy, set out in the Written Scheme of Investigation ("WSI") which would be secured by Requirement 12 of Schedule 2 to the dDCO [REP5-016].

- 4.111. LCC and NCC further raised the adequacy of investigations in the Cottam Solar Project, part of the same landscape, where unexpected human remains were found when targeting nearby features that were unrelated [REP5-040]. The Applicant stated that this was not unexpected and the trenches had been positioned to target the anomalies found on a geophysical survey, the finds were only unexpected so far as the Applicant had not, until that point, fully understood the character of the archaeology and the burials would now be preserved, rather than subject to plough damage [REP5-037].
- 4.112. LCC and NCC responded to ExQ2 2.7.4 that they would be content to move forward with 2% trenching across the remaining 79% of the impact zone, ideally undertake in advance of the determination of the Application, but, if not, the results would be needed in advance of the work programme commencing in any of the areas not currently adequately evaluated [REP5-042].
- 4.113. The ExA considered the approach to archaeological investigation in similar projects, the relative archaeological sensitivity of the area associated with the Proposed Development and the requirements of policy and guidance [ER 3.4.48].
- 4.114. Regarding the approach to archaeological investigation in similar projects, LCC suggested other NSIPs in Lincolnshire have undertaken full coverage of the sites, however, the Applicant pointed to variability in, for example, the Heckington Fen project which had 1.63% trial trenching [ER 3.4.49]. LCC and NCC acknowledged this variability but pointed towards the newness of these solar schemes and that full impacts resulting from the use of piles for fixing arrays, the extent and depth of cable trenching and cumulative impacts resulting from successive refits and decommissioning are only gradually being understood [ER 3.4.51]. The Applicant disagreed that recent experience of large-scale solar demonstrates a high level of impact to buried archaeological remains, referring to 2024 NPS EN-3 which sets out that below ground impacts of solar schemes are generally limited to certain elements of the schemes [REP6-047].
- 4.115. Regarding the archaeological sensitivity, LCC and NCC set out that the area sits within the Trent flood plain and has significant archaeology from the Palaeolithic period onward including previously unrecorded archaeology such as Neolithic pits and flint tools and Bronze Age burnt mounds [REP5-042]. The Applicant agreed the land had the potential to contain sensitive archaeology, referring to the shared cable route corridor adjacent to the River Trent in particular, further noting that evaluation trial trenching demonstrated a high correlation with the results of the geophysical survey and therefore verified the effectiveness of the survey in identifying archaeological sites [ER 3.4.54]. LCC and NCC further raised that Roman settlements, which had not been identified by geophysics, were found on the Tiln Farm Solar Park site, however the Applicant stated that this site had different baseline conditions and should not be considered justification for requiring a high sample of blanket trenching for the Proposed Development [REP6-047].
- 4.116. Regarding policy requirements, LCC and NCC stated that only 21% of the site has been subject to trenching and therefore the requirement in 2024 NPS EN-1 that “*the extent of the impact of the proposed development on the significance of any heritage assets affected can be adequately understood*” had not been met [REP5-042]. Further, LCC and NCC referred to the Chartered Institute for Archaeologists Standard for archaeological evaluation, noting the reference to evaluation within a “defined area” which LCC and NCC

suggest should be the full extent of the development impact zone [REP5-039]. The Applicant stated that the field techniques had been both intrusive and non-intrusive and had enabled the successful identification of archaeological sites, referring to the Universal Guidance for Archaeological Field Evaluation which sets out that non-intrusive methods should be considered first and intrusive used only where necessary [REP5-039]. The Applicant further set out that the 2024 NPSs require that the level of detail in any investigative work must be proportionate to both the heritage assets and the nature of the development, but that there is no guidance relating to the required percentage of evaluation trial trenching [REP6-047].

- 4.117. The ExA concluded that trenching had been used to test the findings of non-intrusive surveys, finding the features were present where suggested and, where trenching has been used in areas where archaeological features were not thought to be present, has confirmed no sign of archaeology [ER 3.4.62]. The ExA concluded that it is reasonable to require further trenching in areas where trenching has not supported non-intrusive investigation, considering this would build on the desk-based assessments and support the 2011 NPS EN-1 requirement to ensure that the extent of the impact of the Proposed Development can be adequately understood [ER 3.4.63].

The Adequacy of the Written Scheme of Investigation

- 4.118. The Applicant's WSI sets out a detailed methodology for the mitigation of the direct impacts of the Proposed Development, including preservation in situ and mitigation by record such as informative trenching, strip, map and record excavation and watching brief monitoring [REP5-016]. The Applicant maintained that sufficient trenching has been undertaken, but did prepare a without prejudice version of the WSI ("WP WSI") which includes a requirement to undertake further trenching post-determination of the DCO, as part of the Informative Trial Trenching work [ER 3.4.65].
- 4.119. LCC and NCC set out that they did not consider the WP WSI to be fit for purpose as the trenching would take place post-consent meaning the development itself and proposed mitigation strategy would not be adequately informed [REP4-080]. LCC and NCC raised further questions such as where the proposed figure for 552 untargeted trenches had come from and whether landscape/ecological mitigation areas could be reasonably excluded from trenching [REP4-080].
- 4.120. LCC and NCC do not support either version of the WSI, instead suggesting an 'Option C' involving 2% trenching with a 2% contingency across the remaining 79% of the Order Limits, with a final evaluation report to be produced in a timely manner to allow the trenching results to provide baseline evidence to inform reasonable, proportionate and fit for purpose site-specific mitigation to be agreed across the Order Limits [REP5-042].
- 4.121. The Applicant responded to state that sufficient evaluation has been undertaken to inform the Application and any mitigation works required as part of the original WSI [REP6-047]. The Applicant responded to concerns raised by LCC and NCC [REP5-038] and, in parts, updated the WP WSI to provide that any ecological mitigation that could cause ground disturbance would be subject to archaeological mitigation and clarified that the further trenching would be untargeted but would be positioned with consideration to anomalies identified by geophysical survey among other considerations, meaning the percentage area of trenching undertaken, 1.09%, would match the Gate Burton Energy Park [REP5-

033]. The Applicant noted that LCC considered this sufficient to inform that DCO application and mitigation strategy [ER 3.4.66].

- 4.122. LCC and NCC raised specific issues about the mitigation provisions in both versions of the WSI, such as the use of ground anchors, the reference to a watching brief on specific groundworks, and the nature of ongoing ground disturbance, including at the decommissioning stage [ER 3.4.71].
- 4.123. The Applicant referred to the use of non-intrusive surface-mounted pre-cast concrete ground anchors to manage the preservation in situ of buried archaeology across ten areas, however LCC considered these could damage archaeology where there is insufficient depth of soil to mitigate the impact of compaction, installation, settlement over the lifetime of the Proposed Development and removal [ER 3.4.72 et seq.]. The Applicant responded that removing the land within the Order Limits from regular ploughing would have a positive effect on the buried archaeological remains [REP5-039]. LCC and NCC stated that ploughing was not relevant as these fields are generally harrowed annually [REP5-042] however, the Applicant reported that this level of agricultural activity had adversely impacted buried archaeological remains [APP-120]. In the CHPS, LCC and NCC suggest that the concrete anchors can only be used where surviving archaeology is at sufficient depth and in areas of shallow deposits would cause damage or destruction without investigation and recording [REP7-010]. The Applicant set out that concrete feet are nationally recognised as a form of archaeological mitigation, referring to guidance by Cornwall Council and HE [REP5-039]. The Applicant further set out that all areas recommended for archaeological mitigation using concrete feet have been subject to field evaluation using geophysical survey and trial trenching and, in both versions of the WSI, the scope of mitigation will be reviewed if archaeological remains are identified of either a lesser or greater extent or significance than anticipated [REP5-037].
- 4.124. LCC and NCC questioned the lack of a strategy in both versions of the WSI to monitor impacts on the underlying archaeological resource during the lifetime of the Proposed Development for areas identified for 'preservation in situ', raising that otherwise ground disturbance from plant movement or storage could affect the archaeological remains [REP5-041]. The Applicant stated that there are other provisions within the suite of DCO management documents which would be beneficial from an archaeological perspective [REP5-037]. The Applicant had used the term 'watching brief' in both version of the WSI to refer to mitigation for certain groundworks, however LCC and NCC stated that this term implies the passive monitoring of earth moving equipment and requested the use of the term 'archaeological monitoring under archaeological control and supervision' so that an archaeologist is controlling the depth of soil being moved [REP4-078]. The Applicant amended the term 'watching brief' to 'Archaeological Monitoring' in both versions of the WSI, noting that it is standard practice for this to be suspended in specific areas where the archaeological potential is proven to be negligible [REP5-038].
- 4.125. LCC and NCC raised concerns regarding ongoing ground disturbance through re-fits and decommissioning, with reference to their view that as there has been insufficient trial trench evaluation across the Order Limits it is not possible to agree adequate mitigation across all phases of the Proposed Development [REP5-041]. The Applicant added a reference to the DEMP to both versions of the WSI, noting this would be secured through the DCO and

is considered sufficient to safeguard archaeological remains during the decommissioning phase [ER 3.4.83].

- 4.126. The ExA, having concluded that further trial trenching was required, noted that it had concerns about whether the archaeological investigation works undertaken to date would enable the resource to be adequately understood as a basis for the Applicant's proposed WSI [ER 3.4.84]. The ExA noted that the WP WSI refers to Informative Trial Trenching being positioned with consideration to anomalies identified by non-intrusive technologies [ER 3.4.85]. The ExA considered that this would represent a proportionate response by managing the risk that areas with archaeological potential would otherwise not be adequately identified or understood [ER 3.4.85]. Overall, the ExA considered that the Applicant's WP WSI would be sufficient to assess archaeological interest, however noting that measures for securing the locations of the additional trenching and provisions for addressing the results in a final WSI would need to be managed through DCO Requirement 12 [ER 3.4.85].
- 4.127. Overall, the ExA was satisfied that the mitigation measures proposed in the WP WSI, including concrete ground anchors, and managed through Requirement 12 of the DCO, along with the provisions set out in various environmental management plans, would be sufficient to minimise harm to the archaeological resource [ER 3.4.86].

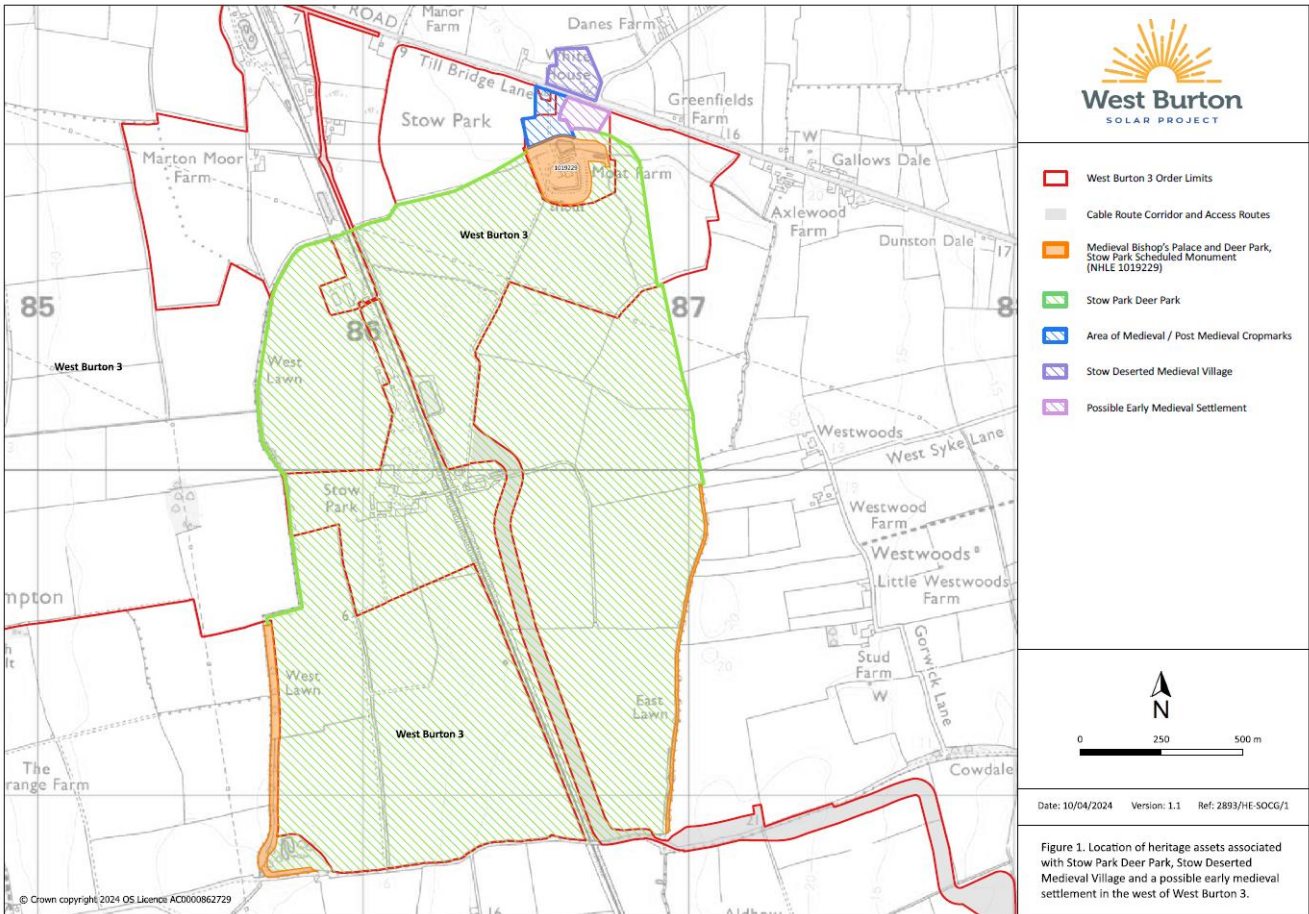
Stow Park

- 4.128. The effect of the Proposed Development on the significance of the Stow Park SAM was discussed at length during the Examination and consulted on extensively post-Examination. Examination documents of particular relevance are the Applicant's Stow Park Cultural Heritage Position Statement [REP5-027] and the final SoCG with HE [REP6-042].

Stow Park - Composition

- 4.129. The Stow Park SAM is composed of three physically separate elements - the site of the moated bishop's palace, the west section of the park pale, and the east section of the park pale, illustrated below in Figure 1.

Figure 1: The Stow Park SAM [REP5-042]



4.130. The Applicant proposes siting part of the WB3 solar array within the internal section of the Stow Park deer park (“the deer park”), noting that it has no designation due to the absence of landscape features that would add to the understanding of how the deer park functioned, noting that is possible to postulate from more well preserved examples of deer parks how it would have formally functioned and where features may have been previously located, but that now there is little evidence to confirm this [REP6-042]. Further, the Applicant states that the various scheduled areas can only be experienced individually and in relatively close proximity and that the architectural space of the deer park is derived from the historical spatial relationship between the three sections of the Stow Park SAM bounding the area, which is largely defined by cartographic evidence [REP6-042].

4.131. HE stated that, while there are gaps between the areas of Stow Park SAM protection, it is one ancient monument and has been designated as such, the parts of which were clearly evident as earthwork features when designated, and the three elements need to be thought of as one whole [REP6-042]. HE set out that the significance of the Stow Park SAM derives, not just from the functional containment and protection of deer and other resources, but as their articulation as a space apart, a space ‘imparked’ [RR-123]. HE refer to the north-south striated topography which suggests the moated site was set in a structured landscape of deer coursing, with the stagger in the west boundary potentially also associated with deer herding, meaning it is possible to experience the Stow Park SAM as an enclosed historic space, bounded to protect the rights and dignity of its owner [RR-

123]. Finally, HE stated that the significance would be profoundly compromised by the loss of its rural character through the installation of panels in the deer park and by it being subsumed into a new landscape of solar generation [REP6-042].

4.132. Regarding composition, during the site visit the ExA was able to appreciate within this rural landscape that the surviving elements of the Stow Park SAM provide a sufficient visual framework to support an appreciation of the nature of the space and how it would have functioned [ER 3.4.132]. Further, the ExA considered that the open visual context of the setting provided by the area of the former deer park as a space 'imparked' is intrinsic to an appreciation of the heritage interest and significance of the Stow Park SAM [ER 3.4.132].

Stow Park- Legibility

4.133. The Applicant notes that the overall legibility of the Stow Park SAM is largely understood through desk-based research and, given there is no direct harm to the three elements of the Stow Park SAM, the current legibility of the Stow Park SAM would not be negatively altered by the presence of solar panels in the deer park [REP6-042]. The Applicant stated that land has been adversely compromised already by the removal of associated features after 'disemparkment' and subsequent activity, meaning there is a lack of legibility when experiencing the Stow Park SAM at ground level [REP6-042]. While the Applicant acknowledged the potential to physically and visually isolate the three elements of the Stow Park SAM, they argued that the relationship has already been adversely compromised by modern activity such as the ex-MOD petroleum storage facility and railway line that bisect the deer park, resulting in there being no intervisibility between the west park pale, and the bishop's palace and east park pale [REP6-042]. The Applicant stated that, theoretically, intervisibility exists between the bishop's palace and the east park pale but the historical relationship is only experienced through the fossilisation and demarcation of the parkland boundary by mature trees and hedgerow [REP6-042]. The Applicant stated that, although intervisibility exists with the northern section of the deer park, the overall legibility is limited: desk-based research demonstrates there are several possibilities for the location of the north pales which would have joined the east and west park pales to the bishop's palace [REP6-042].

4.134. HE state that, while secondary forms such as aerial photographs and historical mapping enhance understanding of the space, they are not a substitute for direct experience and there are good views across the landscape at various points meaning it is possible to reconstruct the space visually and mentally [REP5-047]. HE acknowledge the significant change resulting from ex-MOD petroleum storage facility and the railway bisecting the deer park, but states that they have not fundamentally compromised the ability to experience the Stow Park SAM as a space defined in the landscape and a bounded space [REP6-042]. HE further stated that the strong relationship between the moated site of the bishop's palace and the deer park is retained through its fine-grained topography which enables an appreciation of how the space was used [REP5-037].

4.135. The ExA acknowledged that the removal of some features, along with post-medieval change, means that desk-based research is required to support an appreciation of the layout and functioning of the Stow Park SAM [ER 3.4.31]. The ExA considered that the placing of solar panels within the deer park would result in a material alteration to the character of the landscape, masking the features of micro-topography and losing the rural

openness that currently adds to the legibility of the Stow Park SAM [ER 3.4.133]. The ExA concluded that it would no longer be possible to identify, understand and appreciate how the elements of the SAM would have related, as such a key element of the significance of the Stow Park SAM would be compromised [ER 3.4.133].

Stow Park- Experience

- 4.136. The Applicant stated that post-medieval and modern interventions have significantly altered the character of the Stow Park SAM, preventing it from being experienced as a continuous enclosed space, further, the sense of a space 'imparked' is not clearly appreciable with the current land use both within and without the deer park being agricultural [REP6-042].
- 4.137. HE stated that the Stow Park SAM is experienced kinetically as one moves through and reconstructs the space and that the ability to (mentally) reassemble the deer park would be substantially compromised by the insertion of panels in the deer park filling up its interior space [REP6-042]. HE stated that one can still experience the deer park as an enclosed historic space and that this setting and its contribution to the significance of the Stow Park SAM is about movement through the space [REP6-042].

Stow Park- Contribution of setting to significance

- 4.138. The Applicant and HE agree that the deer park forms part of the setting of the Stow Park SAM, however there is disagreement about how the setting contributes to the significance.
- 4.139. The Applicant states that the character and appearance of the land within the historical boundaries of the deer park is indistinguishable from the land outside of its boundaries and does not contribute to the understanding or appreciation of its former medieval function [REP6-042]. Further, the Applicant considers that the post-medieval changes have had a negative contribution to the significance of the Stow Park SAM and the Stow Park SAM predominantly derives its significance from its historic interest as the surviving elements of a former enclosed medieval space, and not from its setting [REP6-042]. The Applicant notes that the HE Designation Listing primarily focuses on the remains associated with the bishop's palace and notes that an area of buried remains to the north of the moated site was removed from the Order Limits during the design evolution due to their potential association with the Stow Park SAM [REP6-042].
- 4.140. HE stated that the whole area, including the bishop's palace, pales and enclosed deer park was a private space cut out of the medieval landscape and intrinsic to the significance of the Stow Park SAM [REP6-042]. HE further outlined that the post-medieval changes, including arable cultivation and the railway, are part of the significance of the Stow Park SAM, rather than separate from its medieval identity, stating that significance therefore includes consideration of the history and evolution of the Stow Park SAM rather than being confined to certain particular points in time [REP6-042]. In its answer to the ExA's second written questions, HE stated "*it is hard to envisage a more substantially harmful setting impact upon an [sic] designated heritage asset than one such as that proposed at Stow Park where the most central attribute of a park, that it encloses a space of countryside for private uses, is subverted by that space being filled with solar panels*" [REP5-058].
- 4.141. The ExA considered that the evidence presented indicates that key elements of the significance of the Stow Park SAM are derived from both its historic and evidential values

vested in the scheduled earthwork features and potential below ground remains, which would provide an understanding of how the bishop's palace and deer park would have functioned in the medieval landscape [ER 3.4.131]. The ExA acknowledged that further investigation is required to support a greater understanding of how the Stow Park SAM could have related to the area of buried remains and medieval landscape to the north [ER 3.4.131].

Stow Park- Reversibility

- 4.142. The Applicant stated that, following decommissioning, any impact to the setting of the Stow Park SAM would be reversed as the land is reverted back to its current, modern function, as secured by Requirement 21 of Schedule 2 to the DCO which commits the Applicant to gain approval for a Decommissioning Plan [REP6-042]. HE stated that the 60 year and trans-generational span of the Proposed Development is such that HE does not consider that reversibility materially mitigates the impact upon the significance of the Stow Park SAM [REP6-042].
- 4.143. The ExA acknowledged that the Proposed Development is time limited and the harm caused to the setting of the Stow Park SAM would be reversible [ER 3.4.134]. However, the ExA considered the significance of the Stow Park SAM would be undermined over a long-term period of 60 years, typically regarded as being over two generations, and this would not significantly reduce the harmful effects in comparison with a permanent permission [ER 3.4.134].

Stow Park- Mitigation

- 4.144. The Applicant informally explored several mitigation options as part of consultation in 2022 and 2023 with HE including strengthening current field boundaries to better define landscape features, a scheme design to retain the line of sight between the two areas of the Stow Park SAM that currently have intervisibility (the bishop's palace and east park pale), a community research project to create a better understanding of the Stow Park SAM and provision of a heritage trail or information boards to enable public experience of a heritage site that currently has no public access [REP6-042]. The Applicant also laid out some embedded mitigation options that had been considered such as the type of panel used (fixed or tracker), height of panels, landscape screening set back or exclusion areas and spacing of panels [REP6-042]. The Applicant assessed the impact of the Proposed Development on the basis of fixed panels of 3.5m height but concluded that the difference in height between 3.5m fixed panels or 4.5m tracker panels would not significantly affect the impact to the setting of the Stow Park SAM [REP3-038]. Overall, the Applicant stated that the above mitigation measures would not reduce the level of harm from less than substantial harm (at the upper end) and therefore the public benefits from maximising the renewable energy generation supports the use of best available technologies where no additional harm or impacts would be caused [REP6-042].
- 4.145. HE stated that none of the mitigation measures explored by the Applicant would, in their view as the government's expert advisor, reduce the harm to the significance of the Stow Park SAM below substantial harm [REP6-042].

Stow Park- Level of harm

- 4.146. The Applicant laid out in its ES that the Proposed Development would cause less than substantial harm (at the upper end), in NPS and NPPF terms, to the setting of the Stow Park SAM [APP-051]. In EIA terms, the Applicant stated there would be moderate adverse effects at Stow Park SAM during construction, large adverse effects during operation and moderate adverse effects during decommissioning [APP-051]. The Applicant further stated that the landscape mitigation proposals would not mitigate the impacts to the setting of the Stow Park SAM during operation as the proposed layout of panels were in close proximity to the scheduled areas and therefore the effects would remain as large adverse effects [APP-051].
- 4.147. HE set out in their RR that the Proposed Development would cause substantial harm, in NPS and NPPF terms, to the setting of the Stow Park SAM due to the loss of its character as a bounded space, which would represent a significant environmental impact (major harmful) in EIA terms [RR-123].
- 4.148. At ISH5, there was discussion around whether harm to the setting of a designated heritage asset could be the cause of substantial heritage harm in policy terms. The Applicant clarified its agreement with HE that the relevant policy provisions do not differentiate between harm to an asset caused by direct physical action and setting impacts: both are potential sources of harm which can be less than substantial or substantial [REP6-047]. The Applicant further agrees with HE that substantial harm to the significance of a SAM can be caused by setting impacts upon its significance [REP6-047]. The Applicant clarified that the disagreement with HE related to the extent that the setting of the deer park contributes to the significance of the Stow Park SAM and the subsequent level of harm caused by impact to the setting of the Stow Park SAM [REP6-047]. The Applicant reiterated its view that Stow Park SAM derives its significance from its historic interest, that there is no direct physical harm to the significance and harm would that caused to the significance of the monument derived from its setting, and that the level of harm in this case is less than substantial [REP6-047].
- 4.149. The ExA stated that, noting the provisions of the NPS in this regard, their clear view was that, notwithstanding the lack of direct physical impact, the effects of the Proposed Development on this designated heritage asset of the highest significance would represent substantial harm [ER 3.4.135].

Stow Park Alteration

- 4.150. During ISH5, HE stated that their concerns would be addressed by the removal of all panels from the former deer park, in line with their recommendation from May 2022 that this part of the Proposed Development should be removed as it presents avoidable and unjustifiable harm to the significance of a nationally important designated heritage asset [ER 3.4.122].
- 4.151. The Applicant stated that the removal of solar panels within the deer park would result in the loss of 128MW of the total energy generated by the Proposed Development and would affect the feasibility [ER 3.4.123]. The Applicant later clarified the boundaries relating to the deer park with HE and clarified it would result in a loss of 104.145MW of installed capacity, with the capacity of WB3 being reduced to 186.615MW [REP6-042]. The

Applicant also stated that, prior to detailed design and with factors such as overplanting ratios and panel type not yet being determined, the precise impact could not be determined [REP6-049].

- 4.152. The Applicant set out the implications for the Application on the removal of solar panels from within the former deer park on a without prejudice basis [REP7-022]. The Applicant stated that the removal of panels would only affect WB3, but it would still be a generating station with a capacity of more than 50MW and therefore still an NSIP and that the Proposed Development would continue to represent the same NSIP as originally applied for, albeit at smaller electrical generating capacity [REP7-022]. The Applicant stated that underground cabling would still be required to connect the solar panels located in areas outside of the deer park to the WB3 substation and therefore “works including but not limited to underground cabling, access, construction compounds and landscape mitigation and enhancement works” would still take place within the deer park [REP7-022]. The Applicant considered these works would cause less than substantial harm (at the lower end) to the Stow Park SAM during the construction phase only and that the land would be reinstated, with existing agricultural use resuming, after construction [REP7-022].
- 4.153. The Secretary of State wrote to the Applicant on 19 September 2024 requesting information on the Stow Park Alteration proposed towards the close of the Examination. The Secretary of State has considered this information and consultation responses.
- 4.154. The Applicant responded and confirmed that their position regarding the solar panels in the deer park was unchanged and that the presence of solar panels within the deer park amounts to less than substantial harm (at the upper end) to the setting of the Stow Park SAM and the benefits of the Proposed Development outweigh the harm [C1-012]. The Applicant reiterated that due to post-medieval and modern activity there are no defining deer park features remaining, which has denuded the contribution that setting provides to the significance of the Stow Park SAM. The Applicant also stated that the boundaries of the deer park were only defined through negotiation with HE as the listing does not define those boundaries, arguing the lack of clarity on the extent of the deer park adds to how the Stow Park SAM is interpreted and undermines the contribution the setting provides to the Stow Park SAM and the legibility of the deer park in the landscape. The Applicant directed the Secretary of State to photos to assist in understanding the existing setting and whether the Secretary of State agrees with HE’s position on the level of harm [C1-012].
- 4.155. The Applicant laid out that the removal of solar panels from the deer park will reduce the harm to elements of the setting of the Stow Park SAM that contribute to its significance during the operational phase from less than substantial harm at the upper end of the scale to less than substantial harm at the lowest end of the scale (moderate adverse effect reduced to a slight adverse effect) in EIA terms [C1-014]. The Applicant stated there would be slight adverse effects during construction and decommissioning which would cause less than substantial harm (at the lower end) to the Stow Park SAM. The removal of solar panels within the deer park would remove any potential impacts upon buried archaeological features with the exception of the underground cables and, therefore, the proposed archaeological mitigation will only be required in areas of impacts caused by the installation of the underground cables.

4.156. In response to the third consultation letter, LCC state their objection to the Proposed Development in its totality due to the harm on the Stow Park SAM. In response to the third consultation letter, HE state that the deletion of the solar panel arrays within the former deer park would mitigate the substantial harm otherwise caused to the significance of the Stow Park SAM. In response to the third consultation letter WLDC state that there is currently inadequate information provided by the Applicant in regards to the Stow Park Alteration to enable a fully informed decision however note their current assessment is that the impacts are likely to be reduced from 'substantial harm' to 'less than substantial harm' (upper end) due to the Stow Park Alteration.

Cumulative Effects

4.157. In the ES, the Applicant concluded there would be moderate adverse cumulative effects on the Roman villa SAM as a result of the Proposed Development with the Cottam Solar Project [APP-015]. This conclusion was supported by HE, who noted that harm to the Roman villa SAM's significance would result from loss to the agrarian character and legibility of that landscape as the historic landscape context to the SAM [REP3-046].

4.158. However, the Applicant later stated that, following a site visit in the winter when foliage coverage was at its lowest and with consideration to the landscape mitigation of the Proposed Development and the Cottam Solar Project, there would be slight adverse cumulative impacts [REP3-038].

4.159. The ExA was generally satisfied with the Applicant's assessment of the significance of the Roman villa SAM but considered that the original conclusion of moderate adverse cumulative impacts with the Cottam Solar Project was the most soundly based, noting that a greater awareness of alterations to the surrounding landscape would be possible from the non-accessible higher ground associated with the SAM itself [ER 3.4.148].

The ExA's Conclusion on Historic Environment

4.160. The ExA considered that, in general, the Applicant had adequately assessed the significance of the heritage assets affected by the Proposed Development and that the extent of the impact can be understood [ER 3.4.150]. The ExA concluded that the Application met the relevant requirements of 2011 NPS EN-1, 2024 NPS EN-1, the NPPF, PPG and LDP policy [ER 3.4.150].

4.161. With the exception of issues relating to the archaeological investigations undertaken by the Applicant, the effect on Stow Park SAM and cumulative effects relating to the Roman villa SAM, the ExA considered the Applicant's assessment of effects represents a realistic worst-case scenario [ER 3.4.151].

4.162. With regard to archaeology, the ExA identified concerns regarding the extent of the Applicant's evaluation of potential archaeological remains, relating in particular to the large proportion of the Order Limits that were not subject to trial trenching and the risk there would be disturbance to any as yet undiscovered remains associated with the installation of the solar site [ER 3.4.153]. The ExA concluded the Applicant's WSI would not provide an adequate basis for mitigation to be provided [ER 3.4.153].

4.163. The ExA considered the Applicant's WP WSI, which refers to additional informative trial trenching, to be a proportionate response to the sensitivity of the area and the extent of

ground disturbance proposed [ER 3.4.154]. The ExA included the WP WSI at Requirement 12 of the rDCO and considers this would ensure there is no conflict with the provisions within the 2011 and 2024 NPSs and development plans [ER 3.4.154].

- 4.164. The ExA concluded that, based on the Application as submitted and examined, there would be substantial harm to the setting of the Stow Park SAM, further noting that where substantial harm to a designated heritage asset is found, consent should generally be refused unless the public benefits would outweigh the harm [ER 3.4.155].
- 4.165. The ExA considered the Stow Park Alteration towards the end of the Examination and recommended that, to remove an instance of substantial harm, it is necessary that the Proposed Development be amended to remove solar arrays from the deer park [ER 3.4.156]. The ExA acknowledged that the remaining temporary impact from construction within the deer park would mean that less than substantial harm to the setting of the Stow Park SAM would occur [ER 3.4.156].
- 4.166. With regard to cumulative effects, the ExA concluded there would be moderate adverse significant effects on the Roman villa SAM as a result of the Proposed Development and Cottam Solar Project [ER 3.4.157].

The ExA's Consideration of the Planning Balance

- 4.167. The ExA concluded on the accordance with heritage policy provisions overall following the consideration of public benefits as part of the planning balance in chapter 5 [ER 3.4.158]. The ExA referred to paragraph 5.8.14 of 2011 NPS EN-1 which sets out that "*loss affecting any designated heritage asset should require clear and convincing justification ... Substantial harm to or loss of designated assets of the highest significance, including Scheduled Monuments ... should be wholly exceptional*" [ER 5.3.2]. The ExA notes that paragraph 5.8.15 of 2011 NPS EN-1 requires any harmful impact on the significance of a designated heritage asset to be weighed against the public benefits of the development and, if the application would lead to substantial harm to the significance, the decision-maker should refuse consent unless it can be demonstrated that the substantial harm is necessary to deliver substantial public benefits that outweigh the harm [ER 5.3.3].
- 4.168. The ExA noted the public benefits of the principle of the Proposed Development in supporting the urgent need for renewable energy generation of all types and the ExA has ascribed very great positive weight to this consideration [ER 5.3.6]. The ExA has also ascribed little beneficial weight to biodiversity net gain ("BNG"), moderate negative weight to landscape and visual matters and some negative weight to other matters considered, as laid out in the ExA's Report and planning balance [ER 5.3 et seq.]. However, the ExA concluded that the very great benefits associated with renewable energy developments of this nature is not automatically an over-riding factor and in this case must be considered against the substantial harm which would be caused to the setting of a designated heritage asset of the highest significance [ER 5.3.7]. The ExA concluded that these benefits are not of such weight as to overcome the harms identified and the level and degree of heritage harm to the Stow Park SAM would decisively outweigh the public benefits [ER 5.3.7]. As such, having had regard to the submitted LIRs, prescribed matters and all important and relevant matters, the ExA found that, on the balance of considerations, the case for development consent to be granted for the Proposed Development as applied for had not been made [ER 5.3.12].

The Secretary of State's Conclusion on Historic Environment

- 4.169. The Secretary of State agrees with the ExA that, in general terms, the Applicant has carried out an adequate assessment of the heritage assets affected by the Proposed Development.
- 4.170. The Secretary of State considered the Review of LSE at 60 Years [REP1-060] and asked the Applicant for a revised version in the second consultation letter, noting that some of the information wrongly related to the Cottam Solar Project, in particular the section on heritage. The Secretary of State considered this revised version [C2-020] and is now satisfied that the environmental impacts during construction, operation and decommissioning for 60 years have been fully considered and this information is sufficient under the EIA Regulations. The Applicant identified there was no change to the long term reversible large adverse effect, considered significant, on the Stow Park SAM, a range of potentially beneficial effects, some considered significant on various non-designated archaeological remains and a long term reversible moderate adverse effect, considered significant, on four non-designated historic landscapes, which had been assessed in ES Chapter 13 [C2-020].
- 4.171. In the second consultation letter the Secretary of State asked the Applicant to revise the oDS, because it did not contain sufficient detail of the avoidance and mitigation measures to preserve archaeological and heritage assets, to amend the Ground Conditions section to outline specific 'good practice' measures that will minimise the risk of decommissioning contamination, and to amend Table 3.1 to include the topic of Archaeology. The Applicant responded and updated the oDS, including an updated Table 3.1, and provided additional information on the avoidance and mitigation measures to preserve archaeological and heritage assets. The Secretary of State considers the response satisfactorily addresses the issues raised.
- 4.172. HE responded to the third consultation letter stating the latest version of Requirement 12 Archaeology appears unchanged from that originally submitted despite the focus in ExQ2 2.5.10 on alternative wording and more broadly through the examination process on the sufficiency of trial trench evaluation. HE noted that the wording appears insufficiently robust to secure an informed process of archaeological assessment and mitigation and, mindful of the close similarity of issues between the schemes, suggested that the Secretary of State may wish to replace the wording with what it considered to be the more suitable wording, mirroring the equivalent requirement in the Cottam Solar DCO as made. The Secretary of State agrees with HE's wording and reasons and has amended the DCO accordingly.
- 4.173. The Secretary of State agrees with the ExA that the Applicant's WSI does not provide an adequate assessment of heritage assets for mitigation methods to be agreed with LCC and NCC. The Secretary of State notes the concerns of LCC, NCC and HE that large areas had not been subject to trial trenching and notes that it would be preferable to address this pre-consent. However, the Secretary of State is satisfied that the WP WSI, considered reasonable and proportionate by the ExA, includes suitable further trenching which will be sufficient to inform the mitigation strategy.
- 4.174. The Secretary of State notes the specific issues regarding the mitigation provisions in both versions of the WSI raised by LCC and NCC, but agrees with the ExA that these mitigation

measures in the WP WSI, alongside those set out in other environmental management plans, are sufficient to minimise harm to the archaeological resource.

- 4.175. The Secretary of State has had full regard to the Applicant's ES, HE's representations and all post-Examination documentation relating to the Stow Park SAM. The Secretary of State agrees with HE and the ExA that the fixed-term, albeit reversible, effects of the Proposed Development on the setting of the Stow Park SAM would constitute substantial harm. The Secretary of State agrees with the ExA that this harm would not be outweighed by the benefits of the Proposed Development and therefore consent for the Proposed Development in its totality cannot be granted.
- 4.176. The Secretary of State considered whether there were wholly exceptional circumstances for the substantial harm to Stow Park SAM to justify consenting the totality of the Proposed Development and concluded that wholly exceptional circumstances do not exist and that therefore consent should be refused. The Secretary of State also considered whether the policies relating to "critical national priority" in 2024 NPS EN-1 should be applied here, such that the Proposed Development might be treated as if it had met the test of exceptional circumstances. Whilst 2024 NPS EN-1 is an important and relevant consideration, the Secretary of State has concluded that the policies on critical national priority should not be applied in this way during the transitional period because 2024 NPS EN-1 is not yet in effect for the purposes of decision-making.
- 4.177. The Secretary of State concludes that, with the Stow Park Alteration, the effects on the setting of the Stow Park SAM would constitute less than substantial harm. With the Stow Park Alteration, the Secretary of State ascribes minor negative weight to historic environment in the planning balance.

Biodiversity and Ecology

- 4.178. 2011 NPS EN-1 sets out the importance of assessing, as part of the ES, the effects of development on internationally, nationally and locally designated sites of ecological or geological conservation importance, effects on protected species and on habitats and other species identified as being of principle importance for the conservation of biodiversity [ER 3.5.3]. 2011 NPS EN-1 also states proposals should aim to avoid significant harm to biodiversity through mitigation and consideration of reasonable alternatives, and applicants are required to show how projects have incorporated opportunities to conserve and enhance biodiversity interests [ER 3.5.4]. 2011 NPS EN-1 requires the decision maker to take account of climate change and BNG and specifically recognises the importance of Sites of Special Scientific Interest ("SSSI"), ancient woodland and veteran trees. Similar provisions are contained in the 2024 NPSs.
- 4.179. Policies S60 and S61 of the CLLP include the protection of species, habitats and networks, and seek to protect and enhance biodiversity and ensure ecological enhancement through good design. BDCCS refers to BNG, protecting species and habitats, and designated sites.
- 4.180. ES Chapter 9: Ecology and Biodiversity [APP-047] sets out proposals for ecological and BNG enhancements and discusses impacts on Special Protection Areas ("SPAs"), Special Areas of Conservation ("SACs"), Ramsar sites, statutory designated sites of national importance, Local Wildlife Sites, protected species, and habitats for species. Residual effects are described as significant or not significant, with those reported as significant

qualified by reference to an appropriate geographical scale: site, local or district importance [ER 3.5.16]. Embedded and additional mitigation methods are set out in the outline Landscape and Ecological Management Plan (“oLEMP”) [REP6-025] and the outline Ecological Protection and Mitigation Strategy (“oEPMS”) [APP-326].

- 4.181. The Applicant’s original BNG Report [APP-088] calculated that the Proposed Development would provide BNG of 86.80% for Habitat Units, 54.71% for Hedgerow Units and 33.25% for River Units, as a result of proposed landscaping and habitat creation, including enhancement of existing hedgerows and ditches, native hedgerows with trees, native shrub planting, woodland planting, long term diverse meadow mix planting and creation of wildlife ponds.
- 4.182. There are no SPAs, SACs, or Ramsar sites within the Order Limits or within 10km of the Proposed Development, however seven designated sites were considered by the Applicant in the Habitats Regulations Assessment (“HRA”) Report Rev A [REP3-024]. The Secretary of State’s findings and conclusions in relation to the HRA are set out at paragraph 5.1 below.
- 4.183. For protected species, the Applicant reports adverse residual effects on harvest mouse in the construction phase that are significant at a local scale, due to the loss of arable crops within which they make nests and forage, as well as through vehicle movements and possible pollution events. The Applicant assessed that the adverse effects would be reduced during operation to adverse residual effects at site scale significance, due to planned mitigation, including the partial replacement of lost suitable habitat, and the cessation of intensive arable practices [APP-047]. Adverse residual effects on skylark and grey partridge are reported during operational phase, although mitigation would reduce the effects to adverse at the local scale [APP-047]. For overwintering birds, the Applicant reported adverse residual effects that are significant at a site level during operation. This takes into account the creation of 97ha of wetland bird habitat and oEPMS mitigation measures [APP-047].
- 4.184. For hedgerows and tree habitats (excluding the CRC), construction phase works result in neutral residual effects overall, with reported beneficial residual effects at the operational phase at the district level [APP-047]. For hedgerows and tree habitats in the CRC adverse (medium term) residual effects would arise during construction at site level [APP-047].
- 4.185. For ditches and watercourses for the CRC there are reported adverse (medium-term) residual effects during the construction phase at the site level [APP-047].

Cumulative effects

- 4.186. The cumulative effects with the Cottam Solar Project, Gate Burton Solar Energy Park, Tillbridge Solar Park and the shared CRC are set out in ES Chapter 9 [APP-047]. For reptiles and amphibians, a cumulative significant beneficial effect is reported during operation at the district level due to habitat retention, creation and management. Other impacts reported are neutral, apart from negative impacts for harvest mouse and birds and habitats. For harvest mouse, a minor cumulative adverse effect during construction and operation at a local or district scale may be caused. For overwintering bird species a cumulative adverse effect during operation at local scale is possible. For breeding birds including skylark, yellow wagtail, grey partridge and quail a moderate cumulative adverse

effect during operation, at potentially a local to district level, may occur. For habitats along the CRC a cumulative adverse effect during construction is reported due to the need for the compounds, jointing bays, haul routes, etc. to remain in place for five years. No further mitigation was proposed by the Applicant to address these cumulative effects as it considered that all available land and opportunities for mitigation through the provision of habitat for ground nesting birds within the Order Limits had been pursued.

- 4.187. The Technical Note on Cumulative Effects of Additional Schemes [REP5-030] and the ES Addendum: Cumulative effects [REP5-015], identified cumulative significant adverse effects with six other solar farm developments (Stow Park Solar Farm, Springwell Solar Farm, One Earth Solar Farm, Great North Road Solar Park, Beacon Fen Energy Park, and Fosse Green Solar Park), on ground nesting birds up to district level significance at operational phase.

Examination of Biodiversity and Ecology

Internationally, nationally and locally designated sites

- 4.188. The effects on internationally designated sites are considered within the HRA section of this decision letter. In terms of Nationally and Locally designated Sites, the Applicant's ES identified one Site of Special Scientific Interest ("SSSI") within 5 km of WB2, and five within 5km of the CRC. The Applicant reports that the residual effects on the six SSSIs during construction and operation are neutral [APP-047], due to the embedded mitigation and good practice measures set out in the oEMPS [APP-326].
- 4.189. The Applicant's ES sets out the six Local Wildlife Sites which are within the Order Limits (or within 100m of them), or partially within the CRC. The Applicant assesses the potential for direct damage to these sites to be low, and mitigation measures set out in the oEPMS [APP-326], oLEMP [REP6—25] and oCTMP [REP7-005] are considered by the ExA to be sufficient to reduce any harm. The SoCG with NE confirms that NE agrees with the conclusions of the HRA Report Rev A, and with effects on SSSIs [REP5-023]. The SoCGs with the host authorities also conclude that these matters are agreed [ER 3.5.49].
- 4.190. The ExA concluded that, for nationally and locally designated sites, the methodology, baseline conditions, proposed mitigation and assessment of effects is acceptable, including the conclusions drawn [ER 3.5.50].

Protected species

- 4.191. IPs had concerns regarding potential disturbance and displacement of birds and bats, however the Applicant responded that they would benefit from the enhancements proposed and embedded mitigation [ER 3.5.51].
- 4.192. The ExA questioned the Applicant on the impacts on bat activity and their prey [PD-009] and the Applicant stated that it adopted large ecological buffer zones and control measures in the oCEMP, and the oEPMS to mitigate impacts [ER 3.5.52].
- 4.193. The ExA sought further information on the impacts of culverting on otter and vole species and the Applicant responded that there is a need for flexibility, the 'Rochdale Envelope' approach has been used, and the oEPMS [APP-326] sets out mitigation measures, including the presence of an Ecological Clerk of Works who would take any necessary

steps to avoid direct impacts in the event that a burrow, holt or likely sheltering site is found during the pre-construction inspection, or during construction [ER 3.5.53].

- 4.194. The ExA sought to understand why the ES reported arable fields as of site importance only for several bird species of conservation concern and the Applicant responded that its assessment methodology is in accordance with the CIEEM's 2018 Guidelines for Ecological Impact Assessment [ER 3.5.54].
- 4.195. NE noted that protected species licences may be required [RR-233], and the Applicant responded to confirm that sufficient precautionary methods for contingency measures had been agreed with NE as set out in the oEPMS, such that any necessary licenses could be applied for and/or work programmes altered if protected species were found [REP3-038] [ER 3.5.55].
- 4.196. The ExA noted that the Applicant and other parties agree that there remain a number of significant adverse residual effects on protected species [ER 3.5.56]. The ExA noted that the SoCGs with NE, EA, and the host authorities broadly accept that mitigation would be secured to minimise these adverse effects [ER 3.5.56]. The ExA considered that the Proposed Development would make a meaningful contribution to meeting the need for renewable energy generation [ER 3.5.58]. In addition to the other beneficial effects, the ExA considered that the benefit of meeting this need would outweigh the adverse impact on identified species [ER 3.5.58].

Habitats

- 4.197. Concerns were raised about the implications of the loss of trees and hedgerow during CRC construction [REP1A-006]. The Applicant responded that its approach would be to retain and enhance trees and hedgerows where practicable [ER 3.5.60]. The oLEMP sets out that wherever feasible existing access points would be used and maintained to avoid creation of new gaps [ER 3.5.60-61]. The ExA noted the amount of hedgerow loss is proportionally very small and the existing hedgerow is reported as a largely species-poor hedgerow network [ER 3.5.60-61]. The Applicant reports it would take approximately 3-5 years for the full re-establishment of re-planted hedgerows and that mitigation includes the planting of several kilometres of species-rich hedgerow, resulting in net gain of Hedgerow Units [ER 3.5.61].
- 4.198. 7000 Acres set out that the Proposed Development would impinge on LCC's woodland creation programme, and the Applicant responded that 7.1km of native hedgerow and 13.7ha of native woodland is proposed to be planted which would contribute approximately 18% of the LCC woodland creation scheme [ER 3.5.63].
- 4.199. 7000 Acres sought further information on which chemicals would be used to clean the panels and the effects on biodiversity, and the Applicant responded that de-ionised water would be used to clean the panels, and any further soiling would be further cleaned with a soft cloth or brush. The Applicant updated the outline Operational Environment Management Plan ("oOEMP") to include this commitment [ER 3.5.65].
- 4.200. The ExA concluded the effects on trees and hedgerows would be largely temporary and would be followed by an increase in hedgerow provision [ER 3.5.67]. The ExA considered that the effects on ditches and watercourses would be medium term, and during operation would revert to a neutral effect following the implementation of the remediation works in

the oEPMS [ER 3.5.67]. Other measures provided in the oLEMP, oEPMS and oOEMP would be secured by Requirements in the DCO and would provide assurance that the impact of activities would not adversely affect habitats [ER 3.5.67]. The ExA has noted the urgent need for renewable energy generation and that there would be a number of habitat benefits arising from the Proposed Development which, overall, the ExA considered would outweigh the adverse effects [ER 3.5.68].

The extent to which the DCO would deliver BNG

- 4.201. 7000 Acres considered that the BNG targets would not be achieved, and that the BNG calculations should take account of the impact of moving food production overseas [ER 3.5.70]. The Applicant responded that the BNG assessment process includes a commitment to ongoing monitoring and maintenance of habitats for the life of the Proposed Development and that the BNG benefits can be relied upon and secured by Requirement 9 in the dDCO [ER 3.5.71]. The Applicant set out that food production is not relevant or included as part of the BNG metric calculations [ER 3.5.72].
- 4.202. The ExA noted that the BNG percentage in Requirement 9 was less than that submitted in the Application and supporting documents [ER 3.5.74]. Requirement 9 set out that the BNG Strategy would secure a minimum of 69.4% BNG in Habitat Units, a minimum of 43.7% BNG gain in Hedgerow Units and a minimum of 26.6% BNG in River Units [ER 3.5.74]. The Applicant responded that this was because BNG is a relatively new concept and not yet mandatory for NSIP applications and future changes in calculation methodologies may be required [ER 3.5.75].
- 4.203. The ExA concluded that the Applicant's approach reflects that in other recent NSIP cases, and the reduced BNG figures would be achievable, with actual delivery expected to be greater than indicated [ER 3.5.76]. Overall, the ExA considered it beneficial to include BNG percentages within Requirement 9 and the level of BNG that would be delivered would be a significant benefit of the Proposed Development [ER 3.5.76].

The ExA's Conclusion on Biodiversity and Ecology

- 4.204. Overall, the ExA was satisfied that biodiversity and ecology matters have been adequately assessed in the ES [ER 3.5.78]. The ExA has taken into consideration the agreement between the Applicant, NE and EA on these matters, as well as with the host authorities [ER 3.5.78]. Consideration of the impacts has been appropriately informed by survey data, and adequate mitigation secured through the DCO requirements to manage the effects [ER 3.5.78].
- 4.205. The ExA considered that any adverse effects on designated sites would not be significant [ER 3.5.79]. However, there would be significant adverse effects in relation to protected species and habitats [ER 3.5.79]. The ExA has considered the mitigation proposed and the residual effects and has concluded that the benefits from the Proposed Development, including need, clearly outweigh any remaining adverse effects [ER 3.5.79].
- 4.206. The ExA noted there would be enhancements to biodiversity and ecology and these would mitigate harmful effects [ER 3.5.80]. Specifically, the minimum BNG units required by the BNG Strategy would be capable of being managed and secured over the lifetime of the Proposed Development [ER 3.5.80].

4.207. The ExA concluded overall that the Proposed Development would accord with 2011 NPS EN-1, 2011 NPS EN-5, the 2024 NPSs, and development plan policy on these matters [ER 3.5.81]. Whilst adverse effects have been identified, beneficial effects would also arise such as a significant level of BNG and overall, the ExA gave biodiversity and ecology a little positive weight in the planning balance [ER 3.5.82].

Stow Park Alteration

4.208. The Secretary of State wrote to the Applicant on 19 September 2024 requesting information on the Stow Park Alteration. The Secretary of State has considered the information provided by the Applicant in this regard, along with consultation responses from Interested Parties.

4.209. The Applicant stated that the removal of solar panels from the deer park would not result in any new ecological impacts nor impede the provision of mitigation of other impacts [C1-014]. The Applicant notes the Stow Park Alteration would result in some habitat enhancement not being delivered at WB3, including 46.3ha of new diverse grassland types, 50.9ha of lower-diversity permanent grassland beneath panels, 2ha of successional scrub, 1.9ha of woodland shelterbelt, 800m of new hedgerow and enhancement of retained hedgerows and ditches [C1-014]. The Applicant notes this is reflected in the reduced on-site post intervention BNG Habitat Units, Hedgerow Units and River Units as compared to the original figures [C1-014].

4.210. The Applicant provided a revised version of ES Appendix 9.12: Biodiversity Net Gain Report, Revision A ("BNG Report Rev A") [C1-017]. The Applicant noted that despite some habitat enhancement not being delivered, the BNG percentage would actually increase for the Proposed Development to 100.82% for Habitat Units and decrease to 51.10% for Hedgerow Units [C1-017]. The Applicant referred to both 38.01% and 61.85% for River Units [C1-017] and therefore the Secretary of State wrote to the Applicant in the fourth consultation letter asking the Applicant to clarify the figures. The Applicant provided a revised ES Appendix 9.12: Biodiversity Net Gain Report, Revision B [C4-003] which clarified that the BNG for River Units was 38.01% which is an increase.

4.211. The Applicant notes that, while the removal of the deer park results in an increased reported net percentage change in Habitat Units, this reflects the removal of a single field of Other Neutral Grassland (UK Habitat Classification) which disproportionately contributed to the original baseline Habitat Units [C1-014]. The Applicant notes that, without this field within the baseline score, a greater reported net percentage change is now produced despite the reduction in overall size of the site and this obscures the substantial practical biodiversity benefits associated with the creation and enhancement of habitats within the deer park which would be lost through its removal [C1-014].

4.212. In response to the third consultation letter LCC state they welcome the BNG for this proposal, and point out a discrepancy for the maps showing the location of solar panels on the ES Figure 8.18.3: Landscape and Ecology Mitigation and Enhancement Measures Revision B, and ES Appendix 9.12 BNG Report Revision A. The Applicant responded on 19 December 2024 confirming the error in the BNG Report, however confirmed the Stow Park Alteration Works Plan provides the definitive extent of the works permitted in each area. The Secretary of State is satisfied that Works Plan Revision F, submitted in response

to the first consultation letter request, correctly shows the location of the solar panels should the Stow Park Alteration be adopted.

The Secretary of State's Conclusion on Biodiversity and Ecology

- 4.213. The Secretary of State agrees with the ExA that biodiversity and ecology matters have been adequately assessed, and notes this is agreed between the Applicant, NE and the EA, as well as with the host authorities. The impacts have been appropriately assessed and adequate mitigation secured through requirements.
- 4.214. The Secretary of State considered the Review of LSE at 60 Years [REP1-060] and asked the Applicant for a revised version in the second consultation letter, noting that some of the information wrongly related to the Cottam Solar Project. The Secretary of State considered this revised version [C2-020] and is now satisfied that the environmental impacts for 60 years have been fully considered and this information is sufficient under the EIA Regulations.
- 4.215. In the second consultation letter the Secretary of State asked the Applicant to revise the oLEMP to include details of the management actions required for the aftercare period and in the event of specific habitats failing to establish or reach their intended condition. This was because the Secretary of State considered that the oLEMP which had been provided did not contain sufficient detail as to the aftercare period and actions to be taken. The Applicant responded and updated the oLEMP within the relevant habitat sections to provide additional information on the relevant management actions, including specific long term management prescriptions. The Applicant notes the updates are consistent with the updates to the oLEMP submitted to the Secretary of State in respect of the Cottam Solar Project. The Secretary of State welcomes the additional detail added by the Applicant and considers the response satisfactorily overcomes the issue. The Secretary of State notes the revised oLEMP and considers this matter resolved.
- 4.216. The Secretary of State asked the Applicant in the second consultation letter to revise the oDS, because he considered that the oDS did not contain sufficient detail as to the avoidance and mitigation measures to be taken to conserve trees, woodland, and hedgerows. He also requested that the Ecology section should provide more detail on specific measures that will be implemented as part of the 'standard management measures'. The Applicant responded and updated the oDS accordingly, including additional detail as to the avoidance and mitigation measures to be taken to conserve trees, woodland, and hedgerows, alongside referencing which legislation the works would be carried out in line with. The Ecology section was updated to include detail on the specific management measures that are to be implemented. The Secretary of State considers the response satisfactorily overcomes the issue.
- 4.217. The Secretary of State considers potential effects on internationally designated sites in the HRA section. With regard to nationally and locally designated sites, the Secretary of State agrees with the ExA that the methodology, baseline conditions, proposed mitigation and assessment of effects are acceptable, including the conclusions drawn. The Secretary of State agrees that there would be no likely residual effects on nationally or locally designated sites and therefore all residual effects are reported as neutral.

- 4.218. The Secretary of State agrees with the ExA that there remain a number of significant adverse residual effects on protected species. However, mitigation and enhancements would minimise these adverse effects. There is an urgent need for renewable energy generation, and the Secretary of State considers that the benefits of the Proposed Development would outweigh the adverse impact on the species identified. The Secretary of State considers the mitigation and enhancements are adequately secured in the DCO.
- 4.219. With regard to habitats, the Secretary of State agrees with the ExA that there would be significant adverse effects on trees and hedgerows which would be largely temporary and followed by an increase in hedgerow provision, and a medium term effect on ditches and watercourses which would revert to neutral in due course. Mitigation would ensure that the impact of activities such as maintenance would not adversely affect these habitat types, and there are a number of habitat benefits to be provided. Against the identified impacts there is an urgent need for renewable energy generation. Overall, the Secretary of State considers that the benefits of the Proposed Development would outweigh the adverse impact on habitats. On this issue, the Secretary of State agrees with the ExA, and concludes that this matter does not weight for or against the making of the Order.
- 4.220. The Secretary of State recognises the large number of large scale solar farm projects in the Lincolnshire area. In regard to cumulative effects on protected species with these other solar farms, the Secretary of State notes the effects the Applicant reports in the shared CRC - the Applicant states there will be a significant adverse cumulative effect on skylark, yellow wagtail, grey partridge, and harvest mice at the district level. For overwintering birds, hedgerows trees, ditches and watercourses, a significant adverse cumulative effect is predicted at the local level. There is also predicted to be a significant beneficial effect on reptiles and amphibians at the district level. The Secretary of State notes these effects reported for the CRC, but the Secretary of State considers the negative effects are adequately managed, and notes the Applicant's position that all available land and opportunities for mitigation for ground nest birds within the Order Limits have been pursued [ER 3.5.43]. Overall, the Secretary of State considers the benefits of the Proposed Development, with the Stow Park Alteration, outweigh any adverse cumulative impacts on biodiversity and ecology.
- 4.221. The Secretary of State notes there would be enhancements to biodiversity and ecology and agrees with the ExA that the BNG figures would be achievable and managed and secured over the lifetime of the Proposed Development and that the proposed BNG would be a significant benefit which mitigates harmful effects and enhances habitats for species.
- 4.222. In regard to the Stow Park Alteration, the Secretary of State notes that the BNG figures for the Proposed Development would increase overall, although the Stow Park Alteration would also result in some habitat enhancement not being delivered. Despite this, the Secretary of State acknowledges that BNG is not mandatory for NSIPs at this stage, and notes that significant gains are to be achieved which will enhance the habitats at the Proposed Development. The Secretary of State does not consider that the adoption of the Stow Park Alteration changes the overall conclusions regarding Biodiversity and Ecology and does not consider it necessary to amend the level of BNG secured by Requirement 9 of the DCO.

4.223. The Secretary of State agrees with the ExA that overall that the Proposed Development would accord with 2011 NPS EN-1, 2011 NPS EN-5, the 2024 NPSs, and development plan policy on these matters and gives biodiversity and ecology a little positive weight in the planning balance.

Agriculture and Soils

4.224. 2011 NPS EN-1 requires applicants to minimise impacts on BMV agricultural land, defined as land in grades 1, 2 and 3a of the Agricultural Land Classification (“ALC”), stating applicants should use land in areas of poorer quality, defined as grades 3b, 4 and 5, and should not site schemes on BMV agricultural land without justification [ER 3.7.2].

4.225. 2024 NPS EN-1 states that applicants should seek to minimise impacts on soil health and protect and improve soil quality and encourages the preparation and implementation of a Soil Management Plan (“SMP”) [ER 3.7.3]. 2024 NPS EN-3 states that solar development should be mainly on brownfield, industrial, and low and medium grade agricultural land and recognises that solar and farming can be complementary, that development is not prohibited on BMV land and that at NSIP scale, it is likely that developments will use some agricultural land [ER 3.7.4]. 2024 NPS EN-3 states that land type should not be a predominating factor in determining the suitability of a site location and requires that the applicant provides appropriate mitigation measures to minimise impacts on soils or soil resources [ER 3.7.5]. 2024 NPS EN-5 requires appropriate handling of soil, backfilling, and return of the land to the baseline ALC [ER 3.7.5].

4.226. CLLP policy S67 states that proposals should protect the BMV agricultural land and CLLP policy S14 refers to the effective restoration of the land. BDCCS refers to BMV land and the need to avoid the loss of or damage to high-grade agricultural land.

4.227. On 15 May 2024, a WMS was published on solar infrastructure and protecting food security and BMV land. This emphasised certain aspects of the policy in the 2024 NPSs, including that BMV land should be avoided where possible, and preferably use poorer quality land.

4.228. The Applicant’s consideration of agriculture and soils is set out in ES Chapter 19: Soils and Agriculture [APP-057] and Appendix 19.1 Agricultural Land Quality, Soil Resources and Farming Circumstances Report [APP-137].

4.229. The detailed ALC survey found agricultural land in grades 1, 2, 3a and 3b, with the majority being grade 3b land [APP-057]. A pocket of grade 2 land is found in WB2 and two fields of grades 1 and 2 land are present in the south of WB3, within the area of deer park associated with the Stow Park SAM [ER 3.7.17]. The Applicant set out its approach to alternatives in ES Chapter 5 [APP-043] and specifically considered BMV land in line with policy: where BMV land formed the whole or majority of fields that could continue to be viably farmed, it was removed, such as the West Burton 4 array which reduced the amount of BMV land from 42.3% to 26.24% [ER 3.7.23]. The ALC grade distribution within the study area is shown in Table 1 below.

Table 1: ALC Grade Distribution within the Study Area, from Applicant’s ES Chapter 19 [APP-057]

ALC Grade	Area (ha)	Area (%)
Grade 1	17.6	2.3
Grade 2	9.5	1.3
Grade 3a	172.4	22.8
Grade 3b	557.0	73.5
Non Agricultural	1.3	0.2
Total	757.8	100

- 4.230. The Applicant did not undertake an ALC assessment for the cable route corridor (“CRC”), noting that the cable would be buried and interruption of the agricultural use of the land would be limited to the construction phase [ER 3.7.20].
- 4.231. Four farming businesses own and occupy the agricultural land within WB1, WB2 and WB3: land use is predominantly arable, growing standard combinable crops [APP-137].
- 4.232. The Applicant did not obtain farming circumstances information for the CRC, noting that as this information needs to be current, it would be collected before the detailed design of the cable trenching works and construction programme are finalised [APP-057].
- 4.233. During construction there would be a minor impact (not significant) on agricultural land resource, soil resource and farming circumstances [APP-057]. During operation there would be a negligible impact (not significant) on agricultural land resource, moderate beneficial impact (significant) on soil resource and farming circumstances [APP-057]. During decommissioning, there would be a negligible impact (not significant) on agricultural land resource, minor impact (not significant) on soil resource and minor beneficial impact (not significant) on farming circumstances [APP-057].
- 4.234. Embedded mitigation is provided through the Soil Management Plan (“SMP”) which would be secured through the DCO: the outline SMP (“oSMP”) is provided as Appendix 19.2 to the ES [APP-138]. The aim of the oSMP is preservation of the soil resource and avoidance of the loss of soil material and soil functional capacity [APP-057]. There is no further mitigation proposed [APP-057].

Cumulative effects

- 4.235. ES Chapter 19 considers the cumulative effects with six other proposed NSIP solar developments, see Table 2 below [APP-057]. There was no site specific data for the proposals that were pre-planning (Temple Oaks and Tillbridge Solar) but the Applicant used the Predictive BMV Land map series for the assessment, noting further there was no meaningful data available in terms of cumulative impact on soil resources and farming circumstances [APP-057].

4.236. The Applicant states that all six sites would be decommissioned, with no loss of agricultural land and the residual effect of each of the six sites on the agricultural land resource, both individually and cumulatively, is therefore predicted to be not significant for the Proposed Development [APP-057]. The Applicant concluded that, overall, there would be no significant cumulative effect for soils and agriculture for the six cumulative sites [APP-057].

Table 2: Cumulative effects on BMV, produced from information in Applicant's ES Chapter 19 [APP-057]

Development	Proportion of BMV Land (Grades 1, 2 and 3a)
Cottam Solar Project	4.1% BMV land in Grades 2 and 3a
Gate Burton Energy Park	Approximately 11% BMV land which is all Grade 3a
Heckington Fen Solar Park	49% BMV land in Grades 1, 2 and 3a
Mallard Pass Solar Project	Approximately 42% BMV in Grades 2 and 3a
Temple Oaks Renewable Energy Park	Between 20-60% BMV land (Predictive BMV Land assessment)
Tillbridge Solar Project	Between 20-60% BMV land (Predictive BMV Land assessment)
Proposed Development	26% BMV land in Grades 1, 2 and 3a

4.237. The Applicant also provided an ES Addendum: Cumulative Effects [REP5-015] and the report Further Technical Note on Cumulative Effects of Additional Schemes [REP5-030] which discusses six other solar farm developments: Stow Park Solar Farm, Springwell Solar Farm, One Earth Solar Farm, Great North Road Solar Park, Beacon Fen Energy Park, and Fosse Green Solar Park, but identified no significant cumulative effects for soils and agriculture. The proposed Stow Park Solar Farm application is under the TCPA 1990 route, with the others all being NSIPs.

Examination of Soils and Agriculture

Loss of Agricultural Land Resource

4.238. WLDC disputed that the impacts would be temporary and reversible [ER 3.7.31]. LCC stated that the removal of agricultural land for a period of 60 years should be assessed as a permanent loss [ER 3.7.32]. The Applicant responded that, following decommissioning, the land would be returned to agricultural use, but could not guarantee active cultivation after decommissioning [ER 3.7.33]. LCC objected to the loss of agricultural production and estimated that more than 50% of the CRC would be BMV land [ER 3.7.34]. The Applicant responded that agricultural land within the Order Limits could continue in agricultural use throughout the operational period though grazing livestock [ER 3.7.35]. The SoCG with NCC and BDC recorded all agriculture and soil matters as being agreed [REP6-038].

4.239. The Applicant noted that the 769ha of agricultural land required for the Proposed Development would be 0.79% of the 97,815ha of agricultural land in West Lindsay, 0.16%

of the 494,085ha of agricultural land in Lincolnshire and 0.07% of the 1,148,680ha of agricultural land in East Midlands [REP3-038].

- 4.240. The ExA concluded that the loss of agricultural resource would be long-term but not permanent, and agriculture could be maintained throughout the operational phase, although there is no guarantee of this [ER 3.7.42]. The ExA accepted that cable trenching work would be short-term, and mitigation measures are secured in the oSMP [ER 3.7.42].
- 4.241. The ExA concluded the oSMP provides a commitment to the restoration of the land grades and includes decommissioning arrangements, and because the agricultural land would lie fallow arable farming would be possible following decommissioning [ER 3.7.42]. The ExA considered that the long-term effects of the Proposed Development would not unduly affect agricultural land resource [ER 3.7.43]. The ExA was satisfied that if the soil in the CRC was BMV land, mitigation measures would minimise degradation of the soil and be adequately secured in the oSMP [ER 3.7.44].

Food Security

- 4.242. Several IPs raised concerns about food security. 7000 Acres argued this is a material planning consideration [REP3-049]. LCC and WLDC considered that the NPPF recognised the value of agricultural land for food production, and as such it is a material planning consideration [ER 3.7.39]. LCC highlighted food security and considered that cumulative loss of agricultural land places pressure on the local and wider rural economy [ER 3.7.37]. The Applicant confirmed its view at Open Floor Hearing 1 that concerns raised regarding solar farm effects on food security and sustainability are misplaced because the agricultural land used will be returned for agricultural use after decommissioning and during operation can be used for sheep grazing [REP1-051]. The Applicant responded that food security is not a policy consideration within the relevant NPSs, citing policy tests in 2011 NPS EN-1 paragraph 5.10.8 and 2024 NPS EN-1 and EN-3 [ER 3.7.38].
- 4.243. The 2023 NPPF was published during the Examination. LCC considered that footnote 62 of the 2023 NPPF provides an additional test when assessing the loss of any agricultural land that could be used for food production [ER 3.7.39]. 7000 Acres considered that the Applicant had not taken account of food production [REP50-051]. The Applicant re-stated that the Proposed Development would not result in food security impacts either alone or cumulatively and footnote 62 of the NPPF should be read in the context of NPS EN-3 which recognises that solar farms may be located on agricultural land where necessary [ER 3.7.41]. This matter remained not agreed between WLDC and the Applicant [REP7-014].
- 4.244. The ExA agreed that the NPPF recognises the value of agricultural land for food production and there is therefore a link to food security [ER 3.7.45]. The ExA concluded that whilst 2024 NPS EN-3 states that solar farms may be located on agricultural land, any long-term unavailability of land for food production should be considered and could weigh against a proposal [ER 3.7.45]. The ExA shared IPs' concerns regarding the length of time agricultural land would be taken out of production [ER 3.7.46]. The ExA concluded that the Application does not fully mitigate the unavailability of agricultural land over the cumulative long-term, contrary to footnote 62 of the NPPF [ER 3.7.46].

Soil Resource and Management

- 4.245. LCC raised concerns that there would be significant damage to soil structure during the construction phase, particularly caused by vehicles [REP7-023]. NE had concerns regarding the detail of the oSMP, and the restoration of the site to former ALC grades [ER 3.7.47]. The Applicant stated there was an agreement with NE that the Proposed Development should not result in any degradation in ALC land, the oSMP was updated to reflect this at Deadline 3 [REP3-016], and an agreed programme of soil health monitoring would be undertaken throughout operation of the Proposed Development [ER 3.7.48]. NE confirmed it was content with the revised oSMP [ER 3.7.48].
- 4.246. 7000 Acres referred to evidence that solar arrays on farmland resulted in rainwater runoff and soil loss by erosion and suggested the Applicant had not addressed soil compaction damage [ER 3.7.49]. The Applicant stated this was a misconception as rainwater falls off in many locations on to fully vegetated ground beneath [ER 3.7.49]. The Applicant stated that the extended fallow period would benefit soil health and provide wider environmental benefits [ER 3.7.50].
- 4.247. The ExA was satisfied that the oSMP would address soil management matters raised and the SMP would allow the land to be restored to agricultural use following decommissioning [ER 3.7.50]. The ExA noted that although the CRC has not yet been surveyed, the oSMP would ensure the appropriate management of the soil resource and minimise degradation of handled and trafficked soil [ER 3.7.58]. The ExA noted NE was content with the revised oSMP and that the proportion of BMV land across the Order Limits would be low [ER 3.7.59]. In conclusion, the ExA was satisfied that the soil resource would be adequately mitigated [ER 3.7.59].

Agricultural Land Classification Survey

- 4.248. IPs such as 7000 Acres raised concerns as to how the loss of agricultural land had been assessed [ER 3.7.51]. LCC commissioned a review of soils and submitted an ALC Survey, highlighting that previous ALC surveys had indicated a mixture of mainly Grade 3a and 3b land, with some Grade 2 [REP1A-002]. The Applicant confirmed that the ALC survey was in accordance with NE guidance and that NE are the statutory consultee for matters concerning the BMV agricultural land, noting that NE accepted their methodology [ER 3.7.52].
- 4.249. IPs identified apparent inconsistencies in the ALC survey and that the amount of BMV land could be greater than reported [ER 3.7.53]. The Applicant responded that these perceived inconsistencies are due to the use of the climatic data for lowland arable land and that all of the data needed to be assessed together [ER 3.7.53].
- 4.250. The ExA considered that the ALC survey followed NE guidance and noted NE's conclusion that the survey was satisfactory, although data presentation could have been clearer [ER 3.7.54]. The ExA notes the SoCG with NE where it is confirmed that the proposed Development covers approximately 73.5% grade 3b land and the Applicant has complied with the relevant parts of the NPS by minimising impacts on BMV land [REP5-023]. Further, the ExA was satisfied that, regarding anomalies, the correct methodology has been applied and the ALC survey needs to be considered overall, rather than at individual sample sites [ER 3.7.54].

4.251. The ExA sought clarification on the absence of an ALC survey for the CRC and the Applicant confirmed that the works in the CRC would be very narrow and therefore would have limited impact, and once the detailed route of the CRC has been established, soil data would be collected to inform the SMP [ER 3.7.55]. The ExA noted the oSMP confirms soil data from within the CRC should be undertaken to ensure effective segregation of topsoil and subsoil during excavation and infilling [ER 3.7.56]. The ExA considered the oSMP would ensure the appropriate management of the soil resource in this area [ER 3.7.58].

Farming Circumstances and Agricultural Employment

4.252. IPs such as 7000 Acres stated that the Proposed Development would destroy agricultural jobs [ER 3.7.60]. WLDC submitted that the impact on the wider agricultural sector supply chain had not been accurately considered and there was no certainty jobs would return when the land is restored to agricultural use [ER 3.7.61]. The Applicant noted in ES Chapter 18: Socio-Economics, Tourism and Recreation, the long-term loss of 13 full time equivalent (“FTE”) jobs directly and the worst case cumulative scenario with other solar projects is a loss of 38 FTE agricultural jobs [APP-056]. The Applicants concluded the effects on the agricultural economy are long term minor beneficial locally and long term negligible adverse regionally during operation [APP-056]. The Applicant identified net job creation from the Proposed Development as: construction: +432 FTE jobs, operation: -2 FTE jobs and decommissioning: +324 FTE jobs [REP3-036].

4.253. LCC considered that the impacts on four farming businesses would be significant, with some leading to dramatic changes in the farming systems and overall operations [REP1A-002]. WLDC considered that there was no certainty that at the end of the 60 years, that when the land was restored that the agricultural jobs would simply return [REP7-024] [ER 3.7.61]. The Applicant stated there would be a moderate beneficial (significant) impact on farming circumstances during operation due to diversification of enterprise and income from land rental [REP3-038].

4.254. The ExA considered the loss of agricultural jobs individually and cumulatively would be low in impact, and there would be consequential impacts on suppliers and the agri-food sector [ER 3.7.65]. However, the ExA considered that detailed mitigation measures would be secured to minimise these, for example within the outline Skills Supply Chain and Employment Plan (“oSSCEP”) [ER 3.7.65]. The ExA noted that effects on socio-economic matters were considered in Section 3.13 of the ExA’s report [ER 3.7.65]. The ExA also considered that there would be a beneficial effect on employment and the local and wider economy, and that a moderate significant beneficial effect through the diversification of farming enterprise is likely [ER 3.7.66]. The ExA considered farm businesses are unlikely to be adversely impacted overall [ER 3.7.66].

The ExA’s Conclusion on Agriculture and Soils

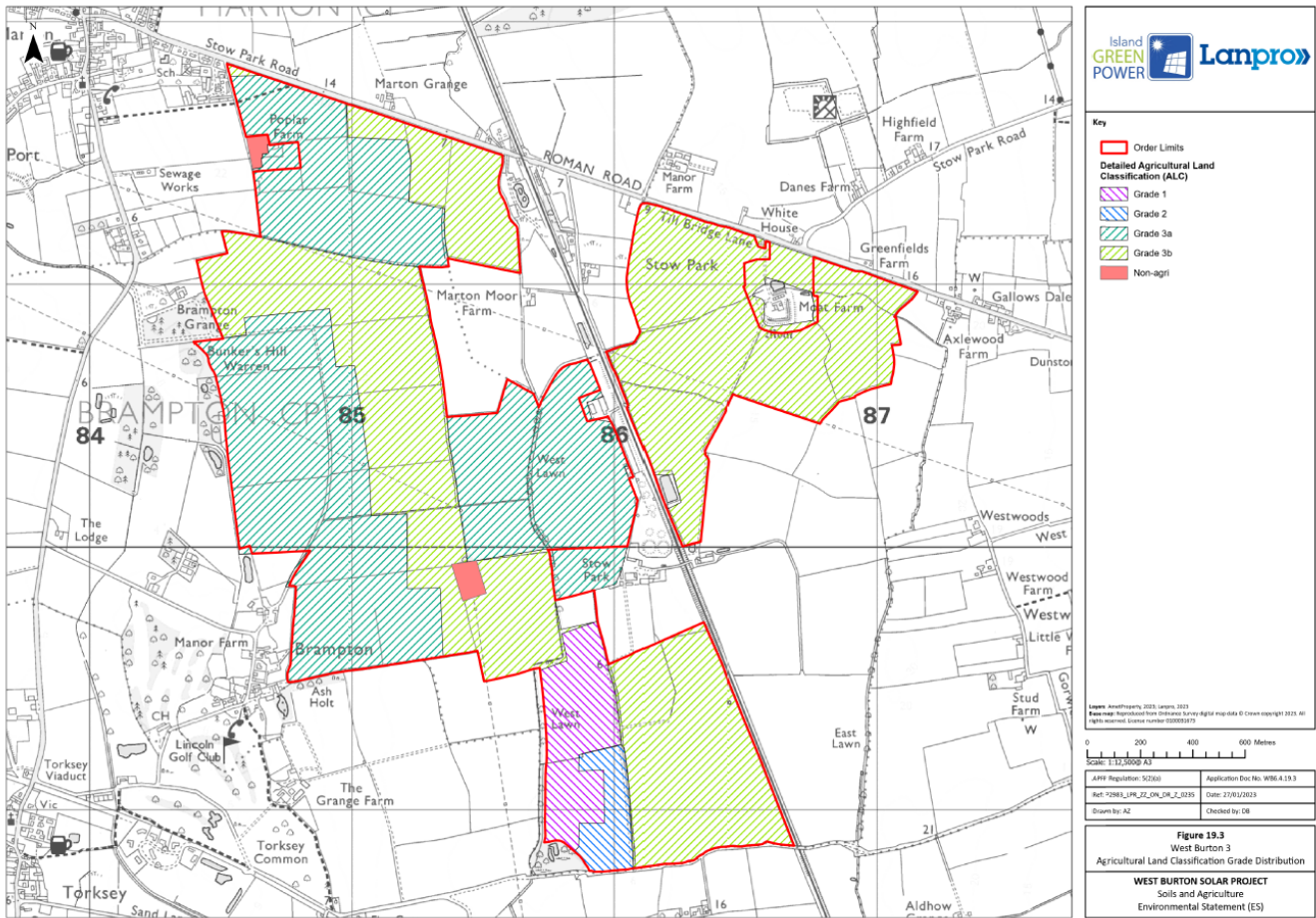
4.255. The ExA considered the amount of BMV land required as a proportion of the Order Limits would be modest, and that the Applicant has sought to minimise the impact on BMV land, including through design alterations [ER 3.7.67]. The ExA noted the Proposed Development would be decommissioned within 60 years and following decommissioning the land would revert to agricultural use [ER 3.7.71]. However, the ExA considered the effects on the agricultural land resource would be long-term [ER 3.7.71].

- 4.256. The ExA concluded the removal of a large area of agricultural land from arable food production for a long-term period would be contrary to the provisions of footnote 62 of the NPPF [ER 3.7.68].
- 4.257. The ExA considered the oSMP provides a commitment to the restoration of the land grades and, because the agricultural land would lie fallow, arable farming would be possible following decommissioning [ER 3.7.71]. However, the ExA considered that whilst effects on the soil resource would be managed by the SMP and in many respects the effects of the Proposed Development would be reversible, the extent to which the quality of land resource itself would improve is not clear [ER 3.7.68].
- 4.258. The ExA concluded the ALC survey follows NE's guidance and provides the classification of land required in order to understand and assess the impacts of the Proposed Development [ER 3.7.69]. The ExA concluded that whilst the ALC survey does not cover the CRC, any loss of agricultural land in the CRC would be over a relatively modest area and for a short duration and the oSMP would ensure the management of the soil and mitigation measures and minimise degradation of handled and trafficked soil [ER 3.7.70].
- 4.259. On the basis of some direct and cumulative agricultural job losses and identified benefits, the ExA concluded that farming businesses would be unlikely to be unacceptably impacted by the Proposed Development [ER 3.7.72].
- 4.260. The ExA concluded in general terms the Proposed Development would accord with the requirements of the 2011 NPSs, the 2024 NPSs, the PPG, the 2015 WMS, and development plan policy in terms of seeking to minimise and justify the use of BMV land [ER 3.7.73]. Nonetheless on the basis of a long-term loss to agricultural production, the ExA affords the effects on soils and agriculture a little negative weight [ER 3.7.73].

Stow Park Alteration

- 4.261. The Secretary of State wrote to the Applicant on 19 September 2024 requesting information on the Stow Park Alteration proposed towards the close of the Examination. The Secretary of State has considered this information, and consultation responses. Figure 1 shows the Stow Park SAM on a map for context [REP5-042].

Figure 2: West Burton 3 ALC Grade Distribution [APP-305]



4.262. The Applicant responded stating there will be no change to the predicted effects on Soils and Agriculture from the removal of solar panels from Deer Park [C1-014]. The Applicant did not update the BMV figures as part of its response to consultation on the Stow Park Alteration [C1-014]. The Secretary of State was unable to reconcile the figures from ES Chapter 4, ES Chapter 5, ES Chapter 19 and ES Appendix 19.1 and asked the Applicant in the fourth consultation letter to submit a table with the figures for the Proposed Development in its entirety and the Stow Park Alteration. Table 3 below uses the figures from the Applicant response [C4-005].

Table 3: ALC Figures, from Applicant’s Cover Letter [C4-005]

TOTALITY OF THE PROPOSED DEVELOPMENT								
Agricultural Land Grade	West Burton 1 (ha)	West Burton 1 (%)	West Burton 2 (ha)	West Burton 2 (%)	West Burton 3 (ha)	West Burton 3 (%)	Scheme Total (ha)	Scheme Total (%)
1	0	0%	0	0%	17.59ha	4.79%	17.59ha	2.31%
2	0	0%	2.6ha	0.86%	6.93ha	1.89%	9.53ha	1.25%
3a	19.26ha	21.31%	7.32ha	2.42%	145.84ha	39.73%	172.42ah	22.68%
3b	71.12ha	78.69%	291.59ha	96.22%	194.32ha	52.92%	557.03ha	73.24%
Non-agricultural	0	0%	0	0%	1.31ha	0.36%	1.31ha	0.17%
Unsurveyed	0	0%	1.52ha	0.3%	1.18ha	0.31%	2.70ha	0.25%

Total	90.38ha	100%	303.03ha	100%	367.17ha	100%	760.58ha	100%
Scheme Total BMV (Grade 1,2 and 3a)							199.54ha	26.24%

PROPOSED DEVELOPMENT WITH STOW PARK ALTERATION								
Agricultural Land Grade	West Burton 1 (ha)	West Burton 1 (%)	West Burton 2 (ha)	West Burton 2 (%)	West Burton 3 (ha)	West Burton 3 (%)	Scheme Total (ha)	Scheme Total (%)
1	0	0%	0	0%	0.01ha	0	0.01ha	0
2	0	0%	2.6ha	0.86%	0	0	2.60ha	0.41%
3a	19.26ha	21.31%	7.32ha	2.42%	118.39ha	50.52%	144.97ha	23.09%
3b	71.12ha	78.69%	291.59ha	96.22%	113.46ha	48.41%	476.17ha	75.85%
Non-agricultural	0	0%	0	0%	1.31ha	0.56%	1.31ha	0.21%
Unsurveyed	0	0%	1.52	0.5%	1.18ha	0.50%	2.70ha	0.43%
Total	90.38ha	100%	303.03ha	100%	234.35ha	100%	627.76ha	100%
Scheme Total BMV (Grade 1,2 and 3a)							147.58ha	23.51%

4.263. Table 3 shows that the Stow Park Alteration would result in less land used in WB3 for solar panel installation. Figure 2 below shows WB3 on a map with grade distributions for context [APP-305]. Grade 1 and grade 2 land in the southeast of WB3 would be removed, along with some grade 3a and 3b land, meaning the amount of BMV land for the Proposed Development, with the Stow Park Alteration would reduce from 199.54ha (26.24%) to 147.58ha (23.51%).

4.264. Table 3 to 6 show that the Stow Park alteration would result in the land used at WB3 reducing by 132.84ha, from 367.17ha to 234.33ha. It also shows the land for the Proposed Development occupied by solar PV arrays would reduce from 760.58ha to 627.76ha. The Secretary of State notes this would result in reduced impacts to agricultural land resource and food security from the Proposed Development with the Stow Park alteration, due to less land used and less BMV land used. In regards to the impacts on soil resource and management, the Stow Park alteration would still require the CRC to go through the Stow Park SAM [C4-005]. In regards to Farming Circumstances and Agricultural Employment, the Applicants responded to the first consultation stating there are no changes in the significance of effects for socio economics, tourism and recreation [C1-014] and therefore the Secretary of State considers the Stow Park alteration would not change the ExA’s assessment on Farming Circumstances and Agricultural Employment.

The Secretary of State’s Conclusion on Agriculture and Soils

4.265. The Secretary of State has considered all relevant policy within the 2011 and 2024 NPSs relating to solar and land use as important and relevant considerations within the decision-making process, including paragraph 5.11.34 of 2024 EN-1 which states that the Secretary of State must ensure that applicants do not site their scheme on BMV land without justification, and, where schemes are to be sited on BMV land, the Secretary of State should take into account the economic and other benefits of the land. The Secretary of

State recognises that the 15 May 2024 WMS⁴ is an important and relevant consideration and it emphasises elements of the 2024 NPSs.

- 4.266. The Secretary of State considered the Review of LSE at 60 Years [REP1-060] and asked the Applicant for a revised version in the second consultation letter, noting that some of the information wrongly related to the Cottam Solar Project. The Secretary of State considered this revised version [C2-020] and is now satisfied that the environmental impacts for 60 years have been fully considered and this information is sufficient under the EIA Regulations.
- 4.267. The Secretary of State agrees with the ExA that the Applicant has demonstrated they have sought to minimise the impact as far as possible with the amount of BMV land required for the totality of the Proposed Development at 26.24%, and the Stow Park Alteration reduces the BMV further to 23.51%. The Secretary of State notes the land could be returned to arable farming after 60 years and that the oSMP provides a commitment to restoration of the land. The Secretary of State acknowledges, for the Stow Park Alteration, the fixed-term, reversible loss of approximately 627ha of agricultural land, and 147.58ha of BMV land, for 60 years but considers that the use of agricultural land is necessary. The Secretary of State notes the Applicants calculations (without the Stow Park Alteration) that the 769ha of agricultural land required for the Proposed Development would be 0.16% of the 494,085ha of agricultural land in Lincolnshire and that the Stow Park Alteration would reduce the impact further.
- 4.268. The Secretary of State agrees with the ExA that the NPPF recognises the value of agricultural land for food production and considers that the Applicant does not fully mitigate this. The Secretary of State considers the fixed-term, reversible loss of land for food production is a negative impact of the Proposed Development, but the impact is small when considered against the total agricultural land available for food production in Lincolnshire. The Secretary of State notes the Stow Park Alteration reduces the impacts on food production further as less agricultural land is required and the amount of BMV land is reduced. The Secretary of State welcomes the suggestion of sheep grazing under the solar panels, both as a form of continued agricultural use, but also as an option for managing grasslands, as set out in the Applicants oLEMP. However the Secretary of State also acknowledges that while sheep grazing would mean the land would remain in agricultural use, this part of Lincolnshire is currently dominated by arable farming and the rearing of sheep is not a directly translatable agricultural enterprise. Furthermore, as the sheep grazing is not secured it cannot be relied upon as a continuing use of agricultural land or mitigation for the loss of BMV, and consequently the Secretary of State does not ascribe it weight in the planning balance.
- 4.269. The Secretary of State agrees with the ExA that the soil resource would be adequately mitigated and issues raised by IPs will be addressed via measures within the oSMP, and notes that NE was content with the Applicant's approach. The Secretary of State notes the Stow Park alteration would still require the CRC to go through the Stow Park SAM [C4-

⁴ <https://questions-statements.parliament.uk/written-statements/detail/2024-05-15/hcws466>

005] but this would not change the conclusions for the Proposed Development impacts on soil resource.

- 4.270. The Secretary of State agrees with the ExA that the Applicant's ALC survey is acceptable and follows NE's guidance. The Secretary of State agrees with the ExA that, whilst the ALC survey does not cover the CRC, the oSMP would ensure the management of the soil in this area.
- 4.271. The Secretary of State agrees with the ExA that although the Proposed Development would result in some direct agricultural job losses farming businesses would be unlikely to be unacceptably impacted by the Proposed Development. The Secretary of State does not consider the Stow Park alteration would change the ExA's assessment on Farming Circumstances and Agricultural Employment
- 4.272. The Secretary of State recognises the geographical clustering of solar developments in Lincolnshire and has considered the Applicant's assessment of cumulative effects. The Secretary of State is content that the Applicant has, as far as practicable, assessed the cumulative impact on BMV from other NSIP schemes and Stow Park Solar Farm under the TCPA 1990 route in the locality. The Secretary of State welcomes the sharing of the CRC with West Burton, Cottam and Tillbridge solar schemes and considers this land will be returned to agricultural use as soon as construction is completed and that the oSMP will ensure the land is returned in the same condition. The Secretary of State agrees with the Applicant that there would not be any significant cumulative impacts on agricultural land resource or soil resource. The Secretary of State notes the Applicant's cumulative assessment does not provide a predicted total number of hectares of agricultural land or BMV land lost across all nearby solar developments. However, the Secretary of State concludes the cumulative effects would be small compared to all the agricultural land available in Lincolnshire and the East Midlands (See paragraph 4.239 and 4.267 above).
- 4.273. The Secretary of State places great importance on the protection of BMV land but is satisfied that the Proposed Development's siting on BMV land has been justified, noting that the Applicant has reasonably evidenced the use of BMV land and considered the relevant 2011 and 2024 NPS tests. However, the Secretary of State acknowledges there are harms due to the fixed-term, albeit reversible, use of BMV land, and the Secretary of State agrees with the ExA and ascribes little negative weight to soils and agriculture in the planning balance.

Water and Flooding

- 4.274. The Secretary of State asked the Applicant, LCC, NCC, WLDC, BDC and the EA to comment on a proposed amendment to Requirement 22 (long term flood risk mitigation) which was not considered during the Examination. The ExA recommended the amendment to address the need for an updated Flood Risk Assessment ("FRA") to be available prior to the discharge of siting and design matters by the relevant planning authorities [ER 7.5.2 and 8.2.24]. The ExA notes that Requirement 22 would address the need for an FRA of the flood risk arising from the River Trent in respect of the 60 year operational period of the Proposed Development as opposed to a 40 year period [ER 3.12.28-63]. The Applicant responded stating it disagreed with the need to amend the proposed wording of Requirement 22 as it would cause delays to the scheme, which would be undesirable given

the urgent need for renewable energy, because it would restrict the Applicant from applying to discharge any of the specified requirements before the updated FRA has been approved by the EA, and may cause knock-on delays of up to a year.

- 4.275. The Applicant submitted that the purpose of Requirement 22 is to ensure appropriate mitigation measures are identified and incorporated into the detailed design of the Proposed Development so that, once the authorised development is commenced, all parties can be satisfied that it will not be at risk of flooding and this is achieved by the previous drafting that requires the updated FRA to be approved before the authorised development is commenced. The Applicant notes that the previous drafting is consistent with Requirement 22 of the Cottam Solar Project DCO and, given that the projects are also seeking to share cable route infrastructure and identify opportunities to construct the schemes in tandem, maintaining consistent wording between the DCOs for these projects will provide consistency, avoid delay, and support efforts to minimise the environmental effects. The EA responded stating it had no comments on the ExA's proposed new drafting and agreed that a FRA must be submitted regarding the works which will extend the lifetime of the development beyond what has been assessed in the previous FRA. WLDC had no further comments. LCC responded stating that the requirement should also include wording to also require consultation with the Lead Local Flood Authority.

The Secretary of State's Conclusion on Water and Flooding

- 4.276. The Secretary of State has considered the responses, and agrees with the ExA, EA, and LCC in that the proposed new drafting for Requirement 22 is needed to address the need for an updated FRA (in respect of the 60 year operational period of the Proposed Development as opposed to a 40 year operational period) to ensure flood levels have been considered fully, to be available prior to the discharge of siting and design matters by the relevant planning authorities. The Secretary of State also agrees with LCC and has amended Requirement 22 further to include consultation with the Lead Local Flood Authority.

Cumulative Effects

- 4.277. 2011 NPS EN-1 states that the Secretary of State should take into account cumulative adverse impacts, noting that applications should include information on how the effects of the proposal would combine and interact with other development, including projects for which consent has been sought or granted as well as those already in existence [ER 3.14.55]. Specifically, 2011 NPS EN-1 notes that the accumulation of effects might affect the environment, economy or community as a whole, even if acceptable on an individual basis [ER 3.14.55]. Similar provisions are contained in 2024 NPS EN-1 [ER 3.14.55].

Examination of Cumulative Effects

- 4.278. IPs set out concerns relating to the cumulative impacts of the Proposed Development along with the Cottam Solar Project, Gate Burton Energy Park and Tillbridge Solar Project, suggesting that these developments should be examined together [ER 3.14.56]. The ExA clarified in its Rule 6 letter that it was appointed to conduct this Examination alone, but that it recognised the importance of considering cumulative and in-combination effects with other solar farm proposals and other developments in the locality [PD-005].

- 4.279. The Applicant addressed cumulative effects in each chapter of its ES and at Deadline 5 submitted an ES Cumulative Effects Addendum which took into account all further information in the public domain since the ES had been prepared in respect of all projects considered [REP5-015]. The Applicant also produced a further Technical Note on Cumulative Effects of Additional Schemes at Deadline 5 [REP5-030].
- 4.280. The Applicants for Gate Burton, Cottam, West Burton and Tillbridge solar projects produced a Joint Report on the Interrelationships between these NSIPs, with Appendix E laying out a Review of Cumulative Effects [REP6-015].
- 4.281. ES Chapter 23 [REP3-010] includes a summary of the cumulative effects which could be considered significant.
- 4.282. For climate change the Applicant found a major beneficial cumulative effect during construction, operation and decommissioning with regard to climate change resilience [REP3-010]. This has been considered by the Secretary of State as part of the principle for development section above.
- 4.283. For ecology and biodiversity, the Applicant found there would be a medium term adverse cumulative effect at site level on hedgerows, trees, ditches and watercourses within the CRC during construction (depending on final designs, methods, routing and duration/sequence). During operation there would be a moderate beneficial cumulative effect on reptiles and amphibians at district level, a moderate adverse cumulative effect on skylark, yellow wagtail, grey partridge and quail at a local to district level (depending on mitigation) [APP-047] and a significant adverse cumulative effect on ground nesting birds at a district level [REP5-015]. These cumulative effects have been considered by the Secretary of State as part of the ecology and biodiversity section above.
- 4.284. For cultural heritage the Applicant found there would be the potential for up to moderate adverse cumulative effects on the setting on the Roman villa SAM due to impacts to the views from the Lincoln Cliff during construction, operation and decommissioning [REP3-010]. This has been considered by the Secretary of State as part of the historic environment section above.
- 4.285. For socio-economics, tourism and recreation, the Applicant found a variety of medium term temporary beneficial effects, significant at local level, relating to employment, accommodation stock and economy; a variety of medium term temporary adverse effects relating to employment, accommodation stock and economy; a variety of medium term temporary adverse effects, significant at local level, relating to tourism and visitor economy, local landscape attractions and long-distance recreation routes during construction and decommissioning [REP3-010]. During operation and decommissioning, the Applicant found long-term adverse effects, significant at local level, on energy sector employment [REP3-010].
- 4.286. For waste, the Applicant found there would be a moderate or large adverse cumulative effect on landfill waste handling in Nottinghamshire during construction, operation and decommissioning [REP3-010].
- 4.287. For human health the Applicant found there would be a cumulative major-moderate beneficial effect on access to employment and education and a cumulative moderate

adverse effect on long distance recreation routes during construction, operation and decommissioning [REP3-010].

- 4.288. Two additional potential significant effects were identified at Deadline 5 in the ES Cumulative Effects Addendum relating to cumulative effects with the proposed Stow Park Solar Farm and other developments [REP5-015]. The Applicant stated there is likely to be a significant adverse cumulative effect at Viewpoint 44 at Cowdale Lane, with the Proposed Development and Stow Park Solar Farm, where the view would become dominated by solar panels [REP5-015]. The ExA considered this in its section on landscape and visual. The Applicant stated that effects on biodiversity and ecology with the additional projects could increase the cumulative significant adverse effects on ground nesting birds to district level significance [REP5-015]. This has been considered by the Secretary of State as part of the ecology and biodiversity section above.
- 4.289. The Applicant refers to the Proposed Development, Gate Burton and Cottam solar projects having similar timelines noting that work has been undertaken to minimise cumulative impacts, including devising the shared CRC and production of a joint Construction Traffic Management Plan if construction schedules overlap [REP6-015].
- 4.290. During the Examination LCC and WLDC noted that the only cumulative assessment provided by the Applicant is one where all projects are consented and there is no assessment of how each combination of projects perform [for example REP1A-004 and REP5-042] and stated that a cumulative assessment that addresses various combinations of solar NSIP is required in order for the decision maker to have adequate information to make a sound decision. The Applicant explained that the approach taken was to assess the worst-case scenario of all NSIPs within the assessment area across the lifetime of the projects and providing additional assessments of each combination of schemes would serve no additional purpose to assist the Secretary of State in determining the likely significant cumulative effects of any combination of cumulative NSIP schemes [REP5-039]. The ExA noted that 2011 NPS EN-1 sets out that the ES should provide information on how the effects of the applicant's proposal would combine and interact with other developments for which consent has been sought or granted as well as those in existence [ER 3.14.68]. Further, the ExA noted EIA Regulations Schedule 3 paragraph 1(b) which refers to cumulation with other existing development and/or approved development projects [ER 3.14.68].

The ExA's Conclusion on Cumulative Effects

- 4.291. The ExA recognised the unprecedented nature of the scale of large-scale solar developments in Lincolnshire and fully appreciated the level and extent of concerns raised by IPs [ER 3.14.69].
- 4.292. The ExA considered that the Applicant, in assessing the worst-case scenario of all solar NSIPs within the assessment area coming forward, had enabled sufficiently informed consideration of the implications of cumulative effects in line with the EIA Regulations and 2011 NPS EN-1 [ER 3.14.69].
- 4.293. The ExA agreed with the Applicant's conclusions relating to cumulative effects aside from those relating to landscape and visual matters and the historic environment which the ExA took into account in its conclusions in the relevant topic sections [ER 3.14.70].

- 4.294. Regarding landscape and visual, the ExA considered that there would be a greater magnitude of landscape and visual effects than suggested by the Applicant, noting that the extent of proposed solar development across West Lindsey District and beyond raises concerns about the potential combined effect on the landscape character of a wide area, as well as cumulative sequential visual impacts [ER 3.14.65]. The ExA ascribed moderate negative weight to landscape and visual in the overall planning balance [ER 3.3.108].
- 4.295. Regarding historic environment, the ExA disagreed with the Applicant's amended assessment of slight adverse cumulative effects on the views from Lincoln Cliff which contribute to the setting of the Roman villa SAM, concluding that the original position of moderate adverse cumulative effects was soundly based [ER 3.14.66].
- 4.296. Overall, the ExA was satisfied that the Applicant had undertaken an assessment of cumulative effects in accordance with the requirements of 2011 NPS EN-1 and 2024 NPS EN-1 and concluded it was a neutral matter in the overall balance [ER 3.14.71].

Stow Park Alteration

- 4.297. The Secretary of State wrote to the Applicant on 19 September 2024 requesting information on the Stow Park Alteration proposed towards the close of the Examination. The Secretary of State has considered this information, and consultation responses.
- 4.298. The Applicant responded and stated that removing solar panels from the deer park would not result in any change to the significance of environmental effects in terms of climate change, ecology and biodiversity, socio economics, tourism and recreation, waste, flooding, ground contamination, minerals, transport, noise and vibration, glint and glare, air quality, soils and agriculture, and human health [C1-014].
- 4.299. The Applicant did not update its assessment of the cumulative effects on cultural heritage, which it had assessed as being slight adverse and therefore not significant [C1-014]. The ExA disagrees with this assessment and considers the cumulative effect is moderate adverse as set out in the historic environment section above. The Secretary of State considers that the Stow Park Alteration would not change the effect and considers the cumulative effect on the Roman villa SAM is moderate adverse.
- 4.300. Regarding landscape and visual impact, the Applicant stated that the overall conclusions of the Landscape and Visual Impact Assessment would remain unchanged, despite reductions to the level of some adverse visual effects [C1-014]. The Applicant concluded that there remains a potential for a significant adverse cumulative effect with Stow Park Solar Farm, noting this would be dependent on the mitigation measures proposed by the developer of that project and would be independent of any effects associated with the removal of solar panels from the deer park [C1-014].
- 4.301. The Applicant also confirmed that the conclusions in the Technical Note on Cumulative Effects of Additional Schemes would be unchanged [REP5-030].

The Secretary of State's Conclusion on Cumulative Effects

- 4.302. The Secretary of State agrees with the ExA that the Applicant has undertaken an assessment of cumulative effects in accordance with the requirements of 2011 NPS EN-1 and 2024 NPS EN-1. The Secretary of State has taken cumulative effects into account in

the relevant topic sections in this decision letter and, where agreeing with the conclusions of the ExA, is satisfied that the ExA has done so too when reaching those conclusions.

- 4.303. The Secretary of State agrees with the ExA's conclusions in relation to socio-economic, tourism and recreation impacts in ascribing neutral weight overall in the planning balance. The Secretary of State agrees with the ExA's conclusions in relation to waste and recycling in ascribing little negative weight overall in the planning balance. The Secretary of State agrees with the ExA's conclusions in relation to health and wellbeing in ascribing neutral weight overall in the planning balance. Considerations relating to cumulative effects for climate change, biodiversity and ecology, historic environment, and agriculture and soils, have been set out in the decision letter sections above.
- 4.304. Overall, the Secretary of State is content that the information provided by the Applicant is sufficient in assessing the cumulative effects of the Proposed Development, with the Stow Park Alteration, with other schemes and the Secretary of State has taken the cumulative effects into account in weightings for each individual planning issue. The Secretary of State will not ascribe a separate weighting for cumulative effects.

5. West Burton Habitats Regulations Assessment

- 5.1. This is a record of the Habitats Regulations Assessment ("HRA") that the Secretary of State has undertaken under the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") in respect of the Proposed Development and its associated infrastructure. For the purposes of these Regulations, the Secretary of State is the competent authority.
- 5.2. The Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. Following the United Kingdom's departure from the European Union, these domestic regulations continue to apply. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the United Kingdom and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together form part of the UK's National Site Network ("NSN").
- 5.3. The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN. Ramsar sites, SACs and SPAs are referred to collectively in this decision letter as "protected sites".
- 5.4. Regulation 63 of the Habitats Regulations provides that:
- "...before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the*

competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives."

5.5. And that:

"In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."

5.6. The Proposed Development is not directly connected with, or necessary to, the management of a protected site. Therefore, under Regulation 63 of the Habitats Regulations, the Secretary of State is required (as the competent authority) to consider whether the Proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any protected site. If LSE cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the protected site in view of its conservation objectives.

5.7. Where an adverse effect on the integrity ("AEoI") of the site cannot be ruled out beyond all reasonable scientific doubt, Regulations 64 and 68 of the Habitats Regulations provide for the possibility of a derogation which allows such plans or projects to be approved provided three tests are met:

- There are no feasible alternative solutions to the plan or project which are less damaging to protected sites;
- There are imperative reasons of overriding public interest ("IROPI") for the plan or project to proceed; and
- Compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.

5.8. The Secretary of State may grant development consent only if it has been ascertained that the Proposed Development will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of protected sites, unless he chooses to continue to consider the derogation tests as above. The complete process of assessment is commonly referred to as a HRA.

Stage 1: Screening for Likely Significant Effects

5.9. The Applicant submitted a HRA Report [APP-327] with the Application and supporting ES. A revised HRA Report ("HRA Report Rev A") was subsequently submitted [REP3-024], which included the Humber Estuary Ramsar site: This has been used to inform this HRA.

5.10. HRA Report Rev A [REP3-024] did not identify any protected sites within a standard 10km radius from the Order Limits. However, considering the mobility of certain protected species, and following advice received during the EIA Scoping process from the Planning Inspectorate, the radius was extended to 30km. HRA Report Rev A identified seven protected sites within the 30km radius of the Order Limits boundary:

- Humber Estuary SAC;
- Humber Estuary Ramsar site;
- Humber Estuary SPA;

- Hatfield Moor SAC;
 - Thorne and Hatfield Moors SPA;
 - Birklands and Bilhaugh SAC; and
 - Thorne Moor SAC.
- 5.11. The Applicant also did not identify any LSE on non-UK European sites in European Economic Area (“EEA”) States in its HRA Report Rev A or its ES [APP-047]. No such impacts were raised for discussion by any IPs during the Examination.
- 5.12. Natural England (“NE”), in its RR agreed with the Applicant’s conclusion in regard to the protected sites assessed and their qualifying features [RR-233]. No other representations relevant to the HRA were submitted during the Examination. Consequently, the ExA decided that a Report on the Implications for European Sites (“RIES”) would not be required.
- 5.13. During the examination of the nearby Cottam Solar Project NSIP (EN010133), the ExA for that project questioned the Applicant and NE on the original exclusion of the Humber Estuary Ramsar site, which shares the same boundary as the Humber Estuary SAC. In response, the applicant for the Cottam Solar Project NSIP produced a revised HRA Report which included the Humber Estuary Ramsar site. The same approach (exclusion of the Humber Estuary Ramsar site) had been taken for the HRA screening for the Proposed Development [APP-327] and to ensure consistency between the two projects, the Applicant issued HRA Report Revision A [REP3-024] which included the Humber Estuary Ramsar site and tests for LSE. The inclusion of the Humber Estuary Ramsar site did not alter the conclusions of the report. NE were content with the report following the addition of the site [REP5-023].

Humber Estuary SAC and Ramsar Site – Electro-Magnetic Field Impacts during operation

- 5.14. At Deadline 1A, the EA [REP1A-007] raised that discussions were ongoing about the impact of Electro-Magnetic Fields (“EMFs”) as part of the ongoing examination of the nearby Gate Burton Energy Park Solar Project. It was noted that the EMFs would arise from the installation of 400kV cables underneath the River Trent, as part of a grid connection corridor which would also be shared with the Proposed Development, Cottam Solar Project and Tillbridge Solar Project.
- 5.15. Sea and River Lamprey are the two species for which the Humber Estuary SAC/Ramsar site are designated. Sea and River Lamprey occur in the Trent and its tributaries and are sensitive to electro-magnetic fields for prey detection.
- 5.16. At Deadline 3, the Applicant provided a Risk Assessment of EMF Impacts on Fish (“Applicant’s EMF Risk Assessment”) [REP3-034]. The Assessment noted that while the cable will operate with a maximum amperage of 1100A, which is 37.5% greater than that of the Gate Burton Energy Park scheme, the magnetic fields emitted by the West Burton cable are likely to be comparable to that of the Gate Burton Scheme (32 microteslas at 5m from the centreline of the cable). This would be below background levels (50 microteslas) and permitted public exposure limits (360 microteslas). The Applicant’s EMF Risk Assessment also noted the relatively small area of the riverbed affected, as well as the transitory nature of the qualifying features within the watercourse.

- 5.17. In respect of the cable route, the minimum 5m drilling depth beneath the lowest surveyed point of the riverbed, is set out in the Concept Design Parameters and Principles [REP5-094], which is in turn secured through Requirement 5 of the DCO.
- 5.18. The Assessment confirmed that at these EMF levels, the risk of impacts to fish such as European eel, Salmon, River Lamprey, and Sea Lamprey was low. Following the production of the Applicant's EMF Risk Assessment, the EA recommended a requirement to secure a monitoring scheme, as although they agreed the risk to fish was likely low, they noted a knowledge gap on EMF impacts on fish which monitoring would fill [AS-059].
- 5.19. At Deadline 4, the Applicant submitted a revised outline OEMP [REP4-054] which included a provision for a monitoring programme for EMF impacts on fish. The final oEMP, which must be substantially in accordance with the outline OEMP, would be secured by Requirement 14 of the DCO.
- 5.20. The EA, in its SoCG with the Applicant [REP6-040], agreed with the methodology and conclusions of the Applicant's EMF Risk Assessment and confirmed that following the submission, if the requirement for monitoring in the outline OEMP was included, that all matters between the EA and the Applicant were agreed.
- 5.21. The Secretary of State notes that NE, the statutory nature conservation body, did not comment on the Applicant's EMF Risk Assessment during the Examination [ER 4.2.7]. In a consultation letter issued on 15 October 2024, the Secretary of State invited NE to comment on whether it was also satisfied with the methodology and conclusions of the Applicant's EMF Risk Assessment. The Secretary of State also invited NE to confirm whether they were content with a request by the Secretary of State to the Applicant to revise the outline OEMP to provide for results of the scheme of EMF monitoring to also be relayed to NE for the purposes of informing best practice and assessments of EMF impacts on fish in the future.
- 5.22. NE, in a consultation response dated 22 October 2024 in response to the Secretary of State's second consultation letter, confirmed that it had reviewed the Applicant's EMF Risk Assessment. NE noted that the assessment was produced to review the impacts of EMF from Cottam Solar Project, Tillbridge Solar Project and Gate Burton Energy Park, alongside West Burton Solar Project, due to their shared cable crossing point. In the response NE also noted that evidence surrounding the impacts of EMF on migratory fish species was still limited, however, the conclusion based on the evidence provided to them was that a burial depth of a minimum of 5m below the riverbed appears to be precautionary, and that they consider the likelihood of a significant effect on migratory lamprey as a result of EMF to be low.
- 5.23. In his second consultation letter the Secretary of State invited NE to confirm if it was content with the request for the Applicant to revise Table 3.3 in the oOEMP to ensure that the programme of EMF monitoring is approved by the EA in consultation with NE. NE responded stating it was content with this request. The Applicant responded stating it has updated the outline OEMP to reflect the requested changes to EMF monitoring of fish in the River Trent and this includes updating Table 3.3 to include NE as a recipient of regular EMF monitoring survey result.

- 5.24. The Secretary of State also requested the Applicant to revise the outline OEMP to provide for results of the surveys to also be relayed to NE on a regular basis for the purposes of informing best practice and assessments of EMF impacts on fish in the future. NE responded stating it would welcome receipt of all monitoring data to inform best practice and assessments of EMF impacts on fish in the future. The Applicant updated the OEMP as discussed above.
- 5.25. The Secretary of State also requested the Applicant to revise the outline OEMP to remove the statement “It is not intended for this programme to confer any requirement for remediation or mitigation in the event of adverse effects are detected as a result of the monitoring” from Table 3.3 of the outline OEMP, and the Applicant responded stating this had been amended.
- 5.26. The EA responded to the fourth consultation letter stating it welcomed the addition on page 11 on the topic of electromagnetic fields and fish that the results of the monitoring surveys are to be shared with the EA and NE.
- 5.27. Based on the information before him, the Secretary of State is content with the Applicant’s EMF Risk Assessment and considers it sufficiently precautionary. He considers that the potential for LSE on the qualifying features of the Humber Estuary SAC and Ramsar site that utilise the River Trent to be unlikely. The Secretary of State welcomes the proposed scheme of EMF monitoring and is content that this will identify any potential changes in the species as a result of the EMF. The Secretary of State is also satisfied that the minimum 5m burial depth is sufficiently secured through Requirement 5 of the Order.
- 5.28. The Secretary of State notes the Applicant’s EMF Risk Assessment and considers the minimum burial depth a feature integral to the design and physical characteristics of the Proposed Development as it is essential to defining the nature, scale, and location of the project. As such, the Secretary of State considers that it should be accounted for in his consideration of LSE.
- 5.29. In the response to the Secretary of State’s second consultation letter, the EA noted that while they had no comments on the EMF monitoring or the outline OEMP (and noted that they were not asked to comment), they wished to confirm that the possibility of mitigation measures if adverse effects on fish are found would be beneficial. However, the EA noted that they are not insisting on this in connection with this solar scheme or others nearby but consider this matter should be dealt with consistently across the Projects.

LSE from the Proposed Development Alone and In-combination with Other Plans or Projects

- 5.30. Ultimately, the HRA Report Rev A [REP3-024] did not identify any LSE, alone or in-combination with other plans or projects, on the qualifying features of the identified protected sites, as neither the protected sites nor any functionally linked land connected to those sites lie within the Zone of Influence of the Proposed Development.
- 5.31. NE, in its SoCG with the Applicant [REP5-023], agreed with the conclusions of the HRA Report Rev A [REP3-024]. The conclusions of the HRA Report Rev A were not disputed by any other IPs [ER 4.2.12].

5.32. Based on the information before it, the ExA was satisfied that the correct impact-effect pathways on each site had been assessed and was satisfied with the approach to the assessment of alone and in-combination LSE [ER 4.2.13].

Stow Park Alteration

5.33. In the Secretary of State's first consultation letter, without prejudice to his final decision, the Applicant was requested to provide an updated ES which considered the removal of the solar panels in WB3 associated with the former deer park land. The Applicant provided updates to the ES [C1-014], however, did not provide an updated HRA report. The Applicant noted that, if a new document was not created, that it was assessed that there would be no change from the original assessment. The Secretary of State has assessed the HRA on the basis that he believes it to be a realistic worst-case scenario, and notes the updated ES contains no information that would lead him to conclude that the conclusions of the HRA Report Rev A would differ as a result of the Stow Park Alteration.

The Secretary of State's Conclusion on the HRA

5.34. The Secretary of State agrees with the ExA that sufficient information has been provided to fulfil his duties under the Habitats Regulations [ER 4.3.6]. Having carefully considered all the information before him, the Secretary of State concludes that the potential for LSE alone or in-combination with other plans or projects on the identified protected sites is unlikely. This conclusion takes into account the integral 5m minimum depth at which the cable would be buried beneath the riverbed of the River Trent, as secured under Requirement 5 of the Order. The Secretary of State is also satisfied that the scheme of EMF monitoring within the oOEMP, and secured by Requirement 14 in the Order, is sufficient to identify any future deviations. This conclusion and its reasoning are consistent with the advice provided by NE, the EA, and the ExA's recommendation [ER 4.3.5].

6. Consideration of Land Rights and Related Matters

6.1. The Secretary of State notes that the Applicant is seeking powers of CA and TP of land and rights which it had not been able to acquire by voluntary agreement to support the delivery of the Proposed Development.

6.2. The Applicant is seeking these powers for:

- The acquisition of all interests in land, including freehold, shown edged red and shaded pink on the Land Plan (Article 20 of the dDCO);
- The acquisition of all interests in land, including freehold in respect of subsoil only (Article 25 in the dDCO);
- The permanent acquisition of new rights and temporary use of land shown edged red and shaded blue on the Land Plan (Article 22);
- The temporary use of land to permit construction or maintenance, including where the Applicant has not yet exercised powers of CA shown edged red and shaded yellow on the Land Plan (Articles 29 and 30); and
- The extinguishment and/or suspension of rights (Article 23) and overriding of easements and other rights (Article 26) shown edged red on the Land Plan [ER 6.4.2].

Outstanding Objections and Protective Provisions

6.3. At the close of Examination, several Affected Persons and Statutory Undertakers had outstanding objections. The Secretary of State wrote to these parties on 15 October 2024 requesting an update.

Affected Persons (APs)

Alison Olivia Brownlow and Rodger Andrew Brownlow

6.4. Alison Olivia Brownlow and Rodger Andrew Brownlow did not respond to the Secretary of State's second consultation letter.

6.5. The Applicant confirmed on 29 October 2024 that Heads of Terms were signed on 9 February 2024 and documents were being negotiated with the landowner's solicitor but were not yet agreed.

6.6. The ExA was satisfied that, if voluntary agreement was not reached, that this land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights [ER 6.6.27]. The Secretary of State agrees.

Neil Elliot

6.7. In response to the Secretary of State's second consultation letter Neil Elliot confirmed by email on 16 October 2024 that a voluntary agreement had not been made as he considered the Heads of Terms were unacceptable and his objection would not be withdrawn. Neil Elliot stated the Applicant said it would be proceeding forward without signature and seeking to obtain the compulsory purchase order. Neil Elliot stated the Applicant had not contacted him since April 2024.

6.8. The Applicant confirmed on 29 October 2024 that it remained willing to enter into a voluntary agreement, however the landowner's agent had confirmed that the landowner was refusing to enter into an agreement.

6.9. The ExA was satisfied that, if voluntary negotiations were not completed, that this land is required for a legitimate purpose, that the rights sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights and TP [ER 6.6.11]. The Secretary of State agrees.

Emma and Nicholas Hill

6.10. In response to the Secretary of State's second consultation letter Emma and Nicholas Hill replied by email on 15 October 2024 that they had not reached a voluntary agreement with the Applicant and would not be withdrawing their objection.

6.11. The Applicant stated on 29 October 2024 that it was continuing to offer a voluntary agreement based on professional and standard valuation techniques, noting that Emma and Nicholas Hill will not accept professional representation and do not agree with the valuation provided.

6.12. The ExA noted the work undertaken seeking to minimise effects on this land interest as set out in the Options Report [REP2-009]. The Options Report was prepared as part of the

Gate Burton Solar Project Examination and assessed five potential options for the alignment of the section of the shared CRC that passes through Hill Agriculture, including option 2 which included exploring the routing of the cables to avoid the barns, but it was not possible to gain site access to examine ground conditions and site constraints in detail [REP2-009]. Overall, the ExA was satisfied this land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights [ER 6.6.24]. Further, the ExA did not recommend that a changed route be adopted and matters relating to the consented barns should therefore be addressed through compensation provisions [ER 6.6.24]. The Secretary of State agrees.

Parochial Church Council of the Parish of Stow-with-Sturton (“PCC”)

- 6.13. In response to the Secretary of State’s second consultation letter PCC stated on 28 October 2024 that its objection cannot be withdrawn. PCC stated it has had no dialogue with the Applicant to seek satisfactory clarification to their concerns regarding rights over lands. PCC consider there is uncertainty on behalf of the Applicant that the CA powers could result in the chancel repair liability ceasing and the lack of communication from the Applicant compounds PCC’s uncertainty about the preservation of the chancel repair liability attaching to the land at Stow Park. PCC further stated that uncertainty is compounded by the Applicant not only entering a lease agreement, but also reserving powers to compulsorily acquire land.
- 6.14. PCC note Article 23(3) of the dDCO which states that “all private rights or restrictive covenants over land of which the undertaker takes TP under this Order are suspended and unenforceable”, noting that if this applied to the chancel repair liability it has the potential to have a serious and deleterious effect on the maintenance of an internationally renowned and significant Anglo-Saxon building that is the Grade 1 listed St Mary’s Church, Stow, also known as Stow Minster.
- 6.15. PCC stated the Applicant had failed to adequately address compensation and noted that an acknowledgement of use of the amended Ecclesiastical Dilapidations Measure 1923 should be part of and form the basis of the calculation of compensation (should it become necessary) prior to the issue of the DCO.
- 6.16. PCC stated that the Applicant had not followed the Government’s Guidance related to Procedures for the Compulsory Acquisition of Land (2013) by failing to adequately address the concerns regarding the impact of the Proposed Development on the right to payment upon request from the landowner of the land which carries the chancel repair liability, failing to enter into dialogue directly with the PCC and suggesting that chancel repair liability would be suspended and unenforceable and thus not recognising the implications of such action. PCC raised the broader point that the Guidance was deficient in addressing chancel repair liability and updated guidance would be helpful.
- 6.17. PCC stated its objection would only be withdrawn upon a categorical statement from the Applicant that the chancel repair liability attaching to land at Stow Park would be unaffected by the Proposed Development and when the uncertainties outlined above are clarified.
- 6.18. The Applicant stated on 29 October 2024 that it did not consider that its powers within Article 23 of the dDCO would extinguish any chancel repair liability tied to the land that

would be due to the PCC as the right to chancel repair contribution is not inconsistent with the exercise of rights granted by the DCO. The Applicant stated there are no implications to the right to chancel repair liability as a result of the Proposed Development but, in the unlikely event that this right was extinguished, compensation would be payable.

- 6.19. The ExA was satisfied that the land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights [ER 6.6.38]. The Secretary of State agrees with the ExA.

Statutory Undertakers (“SUs”)

The Canal and River Trust (“CRT”)

- 6.20. In response to the Secretary of State’s second consultation letter CRT confirmed on 24 October 2024 that negotiations were ongoing, and it was confident it will enter a negotiated agreement for the rights the Applicant needs and is content with the PPs included in the dDCO.
- 6.21. The Applicant stated on 29 October 2024 that discussions were ongoing with CRT regarding commercial terms.
- 6.22. The ExA was satisfied that the inclusion of PPs in the dDCO in favour of the CRT would be sufficient to ensure that there would be no serious detriment to the carrying on of its undertaking, as such the ExA considers the tests set out in s127 and s138 of the 2008 Act are met [ER 6.7.77]. The Secretary of State agrees.

EDF Energy (Thermal Generation) Limited (“EDF Energy”)

- 6.23. In response to the Secretary of State’s second consultation letter EDF Energy confirmed on 29 October 2024 that negotiations were ongoing, however no voluntary land agreement has been agreed and the Applicant had not yet been able to provide the reassurance that EDF requires to ensure there will be no serious detriment to its undertaking in lieu of such a voluntary agreement. EDF Energy provided a correction to the cross referencing in the PPs in the dDCO. EDF Energy maintained its position that its preferred PPs submitted at Deadline 7 [REP7-027] must be included in the DCO instead of those proposed by the Applicant which would result in serious detriment to EDF Energy’s undertaking. EDF Energy maintains its objection.
- 6.24. The Applicant confirmed on 29 October 2024 that the terms of the voluntary agreement were almost agreed with the only outstanding item being the commercial term where the commercial values requested by EDF Energy remain much higher than those offered by the Applicant.
- 6.25. The ExA considered the position of the parties in relation to the requirement for the protection of EDF Energy’s land rights in the absence of a voluntary land agreement, noting the complex and sensitive nature of the infrastructure contained within EDF Energy’s landholdings and associated apparatus, as well as the nature of both decommissioning/demolition activity and evolving development plans [ER 6.7.28]. The ExA concluded that EDF’s preferred PPs [REP5-055] should be adopted in the rDCO in order to avoid serious detriment to EDF’s undertaking [ER 6.7.28]. The ExA recommended that

the Applicant and EDF continue to work together to secure a voluntary property agreement, at which point the Applicant's concerns would also be addressed [ER 6.7.28]. The Secretary of State agrees with the ExA.

National Grid Electricity Distribution ("NGED")

6.26. NGED confirmed on 9 September 2024 that agreement had been reached with the Applicant on the commercial terms for the protection of NGED's apparatus and an asset protection agreement entered into, with its objection now withdrawn.

National Grid Electricity Transmission ("NGET")

6.27. NGET confirmed on 16 August 2024 that its objection was now withdrawn.

Network Rail Infrastructure Limited ("NRIL")

6.28. NRIL did not respond to the Secretary of State's second consultation letter. In the deadline 7 SoCG, NRIL indicated that the PPs were agreed and that once a framework agreement were agreed, NRIL would formally withdraw its objection [REP7-012].

6.29. The Applicant confirmed on 29 October 2024 that the PPs in the dDCO were agreed and that discussions are ongoing in respect of the property agreement and framework agreement.

6.30. NRIL responded on 9 December 2024, to the third consultation letter, stating that an agreement has been negotiated between the parties and is currently being compiled ready for its execution, but would not withdraw its objection until the agreement was completed.

Northern Powergrid Yorkshire PLC ("Northern Powergrid")

6.31. In response to the Secretary of State's second consultation letter Northern Powergrid confirmed on 29 October 2024 that the PPs in the dDCO were agreed and an asset protection agreement had been completed, with the objection now withdrawn.

6.32. The Applicant confirmed on 29 October 2024 that the PPs in the dDCO were agreed and a side agreement has been completed with Northern Powergrid, with the objection now withdrawn.

SNED Ltd, SNSE Ltd and SNSEM Ltd ("SNSE")

6.33. SNSE objected at the start of Examination to the inclusion of infrastructure across their land as part of the CRC as it would affect their existing and future land use [RR-308 and RR-309]. During the Examination, SNSE entered into agreement with the developer for the Steeple Renewables Project, RES, and the Applicant was working alongside RES to ensure the developments, if permitted, could co-exist [ER 6.6.30]. SNSE responded to the Secretary of State's second consultation on 25 October 2024, stating that the development manager at RES confirmed that the Applicant had its comments on the cooperation agreement. SNSE further raised that it had not had substantive responses from the Applicant regarding concerns relating to the easement agreement since 19 September 2024 in relation to commercial terms sent on 23 March 2023.

6.34. In response to the Secretary of State's second consultation letter the Applicant confirmed on 29 October 2024 that negotiations are ongoing and SNSE and RES are engaging with

the Applicant regarding a voluntary agreement. Discussions are also ongoing with Aggregate Industries regarding the use of the access road during construction and the cable under the road. Compensation is not agreed as the commercial point of value used by the landowners and Applicant are very far apart.

- 6.35. The ExA, noting the reasons for which powers are sought and the stage that negotiations have reached was satisfied that, should the voluntary negotiations not be completed, the powers sought for CA/TP in respect of these plots were for a legitimate purpose, necessary and proportionate and that there is a compelling case in the public interest for these powers to be granted, which would outweigh private loss [ER 6.6.32]. The Secretary of State agrees.

Uniper UK Limited (“Uniper”)

- 6.36. In response to the Secretary of State’s second consultation letter Uniper confirmed on 23 October 2024 that the PPs included in revision 1 of the dDCO published on 21 October 2024 are agreed by Uniper.
- 6.37. The Applicant confirmed on 29 October 2024 that the PPs in the dDCO submitted with the Applicant’s response to the first consultation letter were agreed, with the objection now withdrawn.

Crown Land

- 6.38. There is no National Trust land, open space, or common land included in the CA request, however there is some crown land [ER 6.3.2]. The Order Limits include crown land with the Applicant seeking the acquisition of rights over this land [ER 6.3.3].
- 6.39. The crown land is identified in respect of the CRC shared with the Gate Burton Energy Park and Cottam Solar Project as it crosses the tidal River Trent [ER 6.8.2]. At the end of the Examination, a voluntary property agreement with the Crown Estate had not been reached and neither had consent pursuant to s135 of the 2008 Act, although they had been agreed for the Gate Burton Energy Park and Cottam Solar Project [ER 6.8.6].
- 6.40. The Crown Estate confirmed in Post-Examination Submissions dated 9 July 2024 that they had reached an agreement of undertaking with the Applicant and agreed that the Order could contain the relevant powers of CA contained in Articles 20 and 22 of the Order [PIR-003 and PIR-004]. The Crown Estate also confirmed their consent to the CA of third-party interests for the purpose of s135(1) of the 2008 Act, subject to the inclusion of Article 49 in the Order (in its current form) and its continuing application and Commissioners being consulted further if any variation is proposed which could affect any other provisions of the Order which are subject to s135(1) and s135(2) of the 2008 Act [PIR-003 and PIR-004].

Vodafone

- 6.41. Vodafone responded to the Secretary of State’s third consultation letter and confirmed it has apparatus within the vicinity of the Proposed Development however did not request bespoke Protective Provisions.
- 6.42. In the first consultation response, the Applicant provided an updated statement of reasons, Revision D [C1-006], which includes a summary of negotiations with statutory undertakers at Appendix B. In respect of Vodafone, this document refers to the Protective Provisions

for the benefit of telecommunications code network operators which have been included in Part 2 of Schedule 15 to the draft DCO. The statement of reasons notes that at Deadline 1 Vodafone Limited had not submitted a RR and had not requested any bespoke protective provisions [C1-006].

- 6.43. During the examination the Applicant submitted a Schedule of Progress regarding Protective Provisions and Statutory Undertakers, which was updated throughout the examination, with the last update at Deadline 6 [REP6-033]. This document also record that the Applicant had included Protective Provisions for the benefit of telecommunications code network operators in the draft DCO and that Vodafone Limited had not submitted a relevant representation or requested bespoke protective provisions. The Protective Provisions are the same as those referred by the Applicant in their first consultation response and have been included in the DCO. The Secretary of State concludes that the Protective Provisions included in the Order are sufficient to protect the interests of Vodafone.

Severn Trent Water

- 6.44. Severn Trent Water Limited (“STWL”) responded to the Secretary of State’s third consultation letter and noted it had assets within the Order Limits and set out various requests in respect of development in proximity to those assets.
- 6.45. In the first consultation response, the Applicant provided an updated statement of reasons, Revision D [C1-006] which states that Protective Provisions for the benefit of water undertakers have been included in Part 1 of Schedule 15 to the draft DCO and that discussions were ongoing as to whether bespoke protective provisions are required . The statement of reasons notes that at Deadline 1 STWL had not submitted a RR and had not requested bespoke protective provisions [C1-006].
- 6.46. The Applicant’s Schedule of Progress regarding Protective Provisions and Statutory Undertakers [REP6-033 was updated at Deadline 4 to confirm that the Applicant had included Protective Provisions for the benefit of water undertakers in the draft DCO and it considered that these would provide adequate protection for STWL’s rights, apparatus and operations in respect of any interfaces with the Scheme, and that the Applicant was therefore confident that there will not be any serious detriment to STWL's undertaking. These have been included in the draft DCO. In regard to ongoing discussions as to whether bespoke protective provisions are required the Secretary of State considers, that it is open to the parties to enter into a separate agreement at a later date if further terms are agreed between them outside the planning process. The Secretary of State concludes that the Protective Provisions included in the Order are sufficient to protect the interests of STWL.

The ExA’s Conclusion on Land Rights and Related Matters

- 6.47. The ExA, having considered the Applicant’s case as set out in its Statement of Reasons [REP6-044], considered that the proposed use and nature of the development establishes a compelling case in terms of the land being needed for this purpose and being no more than is reasonably required to deliver the Proposed Development [ER 6.5.10]. Further, in terms of the other public benefits referred to relating to BNG measures, local employment generation and permissive paths, these elements are justified reasons for CA and TP if the proposed use is itself justified [ER 6.5.10].

- 6.48. The CA Guidance indicates that the Applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to CA, including modifications to the Proposed Development, have been explored. The ExA considered the Applicant's approach to alternatives at Section 3.2 of the ExA's Report and was generally satisfied with the Applicant's overall approach to the consideration of site selection and alternatives [ER 6.5.14]. The ExA concluded that the Applicant's approach to alternatives and the overall scale and extent of land required for the Proposed Development complies with the CA Guidance in terms of being reasonable and proportionate and agreed that the flexibility sought within the Order land and provisions for overplanting is necessary to deliver the benefits of the Proposed Development [ER 6.5.15]. The ExA further noted there were a relatively modest number of landowners within the Order Limits and the Applicant had entered into option agreements with landowners relating to the solar sites, with ongoing efforts to reach voluntary agreements with other APs indicating that reasonable alternatives to the use of CA/TP powers have been explored [ER 6.5.16].
- 6.49. The ExA considered the Applicant's Funding Statement [REP4-030] and other information, concluding that the necessary funds would be available to the Applicant to cover the likely costs of CA and Article 47 of the rDCO would require a guarantee or other form of security approved by the Secretary of State to be in place prior to the exercise of the CA powers [ER 6.5.20].
- 6.50. The ExA concluded in Chapter 5 of the ExA's Report that the case for making the DCO based on the Application as submitted and examined (not including the without prejudice offer to exclude arrays from the deer park at Stow Park SAM) was not made out in terms of planning merits, but noted that the Stow Park Alteration provided a further option or consideration [ER 6.5.23].
- 6.51. The ExA was satisfied that there is sufficient evidence that the CA powers sought over the land identified in the Land Plans and Book of Reference would be required for the Proposed Development, to facilitate it or would be incidental to it and therefore meet the condition set out in s122(2) of the 2008 Act [ER 6.7.82]. With regard to private land interests, the ExA considered there is a compelling case in the public interest for the land to be acquired compulsorily and therefore meets the tests in s122(3) of the 2008 Act [ER 6.7.83].
- 6.52. Having considered PPs in the round, and set out the ExA's recommended position in light of specific objections, the ExA considers the PPs sufficient to ensure there would be no serious detriment to SUs affected and, moreover, the extinguishment or removal of apparatus belonging to SUs is necessary for the purpose of carrying out the Proposed Development [ER 6.7.84]. Overall, the ExA considered the powers sought meet the requirements of s127 and s138 of the 2008 Act [ER 6.7.85].

Human Rights Act 1998 ("the 1998 Act")

- 6.53. IPs and APs raised concerns regarding the adequacy of pre-application consultation with landowners. The Applicant set out how the requirements had been complied with in the Consultation Report [APP-022] and the ExA concluded that the requirements of Article 6 of the 1998 Act had been satisfied [ER 6.8.18].

The Proposed Development (as applied for)

- 6.54. With regards to the Human Rights Act 1998, the ExA considered that, as the planning merits case for the Proposed Development has not been made out, the proposed interference with individuals' rights under Article 1 of the First Protocol of the 1998 Act would not be lawful, necessary, proportionate and justified in the public interest [ER 6.8.12].
- 6.55. The Order Limits do not include the outright acquisition of any residential property and therefore, it is not expected that rights protected by Article 8 of the 1998 Act would be infringed, however the ExA accepts that the effects on property and business could represent interference under Article 8 [ER 6.8.15]. The ExA concluded that, as the planning merits case had not been made out, the interference under Article 8 of the 1998 Act would not be justified [ER 6.8.16].

Stow Park Alteration

- 6.56. However, for the Proposed Development as amended by the Stow Park Alteration, the ExA considered that the planning merits case would be made out and, if the Secretary of State chose to support this amendment, with consequent alteration to land and rights requirements, then the ExA considered it possible that the proposed interference with individuals' rights under Article 1 of the First Protocol of the 1998 Act could be lawful, necessary, proportionate and justified in the public interest [ER 6.8.13].
- 6.57. For the Proposed Development, as amended by the Stow Park Alteration, the ExA concluded that the interference with human rights would be for a legitimate purpose, as it would be required to the delivery of the Proposed Development with Stow Park Alteration, or would be required to facilitate or would be incidental to the Proposed Development with Stow Park Alteration, in accordance with s122 of the 2008 Act [ER 6.8.17]. In these circumstances, the ExA concluded such interference would be justifiable on the basis that it would be lawful and in the public interest [ER 6.8.17].

The ExA's Overall Conclusion

- 6.58. The ExA's overall conclusion was that:
- ***“On the basis of the Application as submitted and examined (but not including the without prejudice offer to exclude arrays from the deer park land at Stow Park): the proposed interference with the rights of those with an interest in the Order land would not be for a legitimate purpose and would not be necessary and proportionate to that purpose. The public benefits to be derived from the proposed CA would not outweigh the private loss that would be suffered by those whose land or interests would be acquired, and therefore does not justify interfering with that land or those rights.***
 - ***On the basis of the Stow Park Alteration: that the proposed interference with the rights of those with an interest in the Order land would be for a legitimate purpose and would be necessary and proportionate to that purpose. The public benefits to be derived from the proposed CA would decisively outweigh the private loss that would be suffered by those whose land or interests would be acquired, and therefore justifies interfering with that land or those rights”*** [ER 6.8.19].

The Secretary of State's Conclusion on Land Rights and Related Matters

- 6.59. The Secretary of State has considered all information, submissions and representations made, including post-Examination submissions and responses to consultation letters.
- 6.60. The Secretary of State agrees with the ExA that the Proposed Development, in its totality, would contravene relevant NPS policy and its adverse impacts would outweigh its benefits, meaning that development consent should not be granted under the 2008 Act. In this case land and/or rights would not be required under the CA tests set out in s122 of the 2008 Act and there would be no reason to reach conclusions on crown land, funding or human rights considerations. The Secretary of State notes that the same tests do not apply to TP aspects, however given that all TP proposals in the Application support the primary objective of delivering the Proposed Development, if development consent is not to be granted for that purpose then there is no remaining justification for TP powers.
- 6.61. The Secretary of State, on the basis of the Proposed Development amended by the Stow Park Alteration, concludes that development consent should be granted under the 2008 Act. The Secretary of State requested an updated Book of Reference and Land Plans from the Applicant in his first consultation letter and considers that these have been appropriately updated to remove the plots within the former deer park related to the Stow Park SAM and identify the plots required for TP to support the provision of access, the cable routing and related works.
- 6.62. For the Proposed Development, with the Stow Park Alteration, and notwithstanding changes made as a result of the Stow Park Alteration to the plots as outlined above, the Secretary of State agrees with the ExA's conclusions that:
- there is a clear need for the land included in the Book of Reference (as amended) to be subject to CA or TP;
 - the Applicant's approach to alternatives complies with the CA Guidance;
 - the rDCO provides a clear mechanism for funding to be guaranteed;
 - the powers sought satisfy the conditions set out in s122 and s123 of the 2008 Act and the CA Guidance; and
 - the powers sought in relation to SUs meet the conditions set out in s127 and s138 of the 2008 Act and the CA Guidance.
- 6.63. The Secretary of State concludes that consent has now been obtained from the relevant Crown authorities and the powers sought have met the conditions in s135 of the 2008 Act.
- 6.64. The Secretary of State concludes that, on the basis of the Proposed Development amended by the Stow Park Alteration, there is a compelling case in the public interest for the CA and TP powers sought and any interference with human rights under the 1998 Act would be justifiable on the basis that it would be lawful and in the public interest.
- 7. The Secretary of State's Consideration of the Planning Balance and Conclusions**
- 7.1. The Secretary of State has decided to follow the ExA's recommendation that:
- I. Based on the Application as submitted and examined (but not including the without prejudice offer to make the Stow Park Alteration), the Secretary of State should withhold consent for the West Burton Solar Project Order;

- II. Based on the Stow Park Alteration, and conditional on the outcomes of the further considerations set out at ER 8.2.22, the Secretary of State should make the West Burton Solar Project Order in the form attached at Annex E of the ExA's Report [ER 8.3.1].

Summary of the main planning issues

- 7.2. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Landscape and Visual (moderate negative weight) [ER 3.3 et seq.];
 - Transport and Access (neutral weight) [ER 3.6 et seq.];
 - Safety and Major Incidents (neutral weight) [ER 3.8 et seq.];
 - Noise and Vibration (neutral weight) [ER 3.9 et seq.];
 - Air Quality (neutral weight) [ER 3.10 et seq.];
 - Health and Wellbeing (neutral weight) [ER 3.11 et seq.];
 - Socio-Economic, Tourism and Recreation Effects (neutral weight) [ER 3.13 et seq.]; and
 - Other Planning Matters: waste and recycling (little negative weight) [ER 3.14 et seq.].
- 7.3. The paragraphs below set out the matters where the Secretary of State has further commentary and analysis to add beyond that set out in the ExA's report.
- 7.4. The Secretary of State agrees with the ExA in regard to the principle of the development, and agrees that there is an urgent need for the Proposed Development. Consequently, the Secretary of State ascribes this very great positive weight.
- 7.5. The Secretary of State notes that the ExA addresses climate change in the section of the ExA's Report entitled "Other planning matters" (ExA 3.14 et seq.) and ascribes very great positive weight in the planning balance to the net carbon benefit of the Proposed Development. The Secretary of State has taken a different approach, considering that the net carbon benefit of the Proposed Development is intrinsic to the need for the Proposed Development. Consequently, it is not considered appropriate to ascribe separate positive weighting to the carbon benefits of the project as this would amount to a form of double counting.
- 7.6. The Secretary of State agrees with the ExA that biodiversity and ecology matters have been adequately assessed and adequate mitigation secured. The Secretary of State agrees with the ExA that there remain a number of significant adverse residual effects on protected species and habitats, however mitigation and enhancements including BNG would minimise these adverse effects and the urgent need for renewable energy along with other benefits of the Proposed Development would outweigh the adverse impacts. The Secretary of State ascribes little positive weight in the planning balance to biodiversity and ecology matters.
- 7.7. The Secretary of State agrees with the ExA in regard to agriculture and soils, in that the Proposed Development would in general terms accord with the requirements of national policy and LDP policy in terms of seeking to minimise and justify the use of BMV agricultural land. However, there are harms due to the fixed-term, albeit reversible, use of BMV land

and the Secretary of State, in agreement with the ExA, ascribes little negative weight to soils and agriculture.

- 7.8. The Secretary of State agrees with the ExA that matters relating to water and flooding are neutral in the planning balance.
- 7.9. The Secretary of State agrees with the ExA that the Applicant has undertaken an assessment of cumulative effects with other schemes and the Secretary of State has taken the cumulative effects into account in weightings for each individual planning issue as the ExA has done. The Secretary of State will not ascribe a separate weighting for cumulative effects.
- 7.10. In regard to Historic Environment, the Secretary of State agrees with the ExA that, in general terms, the Applicant has carried out an adequate assessment of the heritage assets affected by the Proposed Development and that the extent of the impact can be understood. There would be slight adverse effects to the settings of a number of listed buildings, cumulative harm to the setting of the Roman Villa SAM, and harm to non-designated heritage assets. The Secretary of State agrees with the ExA that there would be substantial harm to the setting of the Stow Park SAM and that the Stow Park Alteration would reduce the harm to less than substantial harm. The Secretary of State concludes on compliance with heritage policy provisions following consideration of public benefits as part of the planning balance set out below.

The planning balance: the application as made

Heritage balance – the application as made

- 7.11. Regarding the Heritage balance in respect of the application as made, the Secretary of State notes that the public benefits include the urgent need for renewable energy, which is ascribed very great positive weight, and biodiversity and ecology, which is ascribed little positive weight, landscape and visual impacts which are ascribed moderate negative weight, agriculture and soils which are ascribed little negative weight, waste and recycling which attracts little negative weight and other matters which are ascribed neutral weighting. The Secretary of State concludes that due to the substantial harm to the Stow Park SAM, which is a designated asset of the highest significance, the public benefits do not outweigh the harm. The loss of designated assets of the highest significance should be wholly exceptional and the Secretary of State has concluded wholly exceptional circumstances do not exist and that therefore consent should be refused. The Secretary of State also considered whether the policies relating to “critical national priority” in 2024 NPS EN-1 should be applied here, such that the Proposed Development might be treated as if it had met the test of exceptional circumstances. Whilst 2024 NPS EN-1 is an important and relevant consideration, the Secretary of State has concluded that the policies on critical national priority should not be applied in this way during the transitional period because 2024 NPS EN-1 is not yet in effect for the purposes of decision-making.

Overall planning balance – the application as made

- 7.12. Regarding the overall planning balance for the application is made, the Secretary of State confirms that regard has been given to all matters which are considered important and relevant to the Secretary of State’s decision as required by section 105 of the 2008 Act and regulation 4(2) of the EIA Regulations. In considering the planning balance the

Secretary of State notes the weightings as set out in paragraph 7.11 above. In conclusion, the Secretary of State finds that the case for development consent to be granted for the Proposed Development as applied for has not been made, due to the substantial harm that would be caused to the setting of the Stow Park SAM and other harms identified in paragraph 7.10 and 7.11, and consent therefore should be refused.

The planning balance: the Stow Park Alteration

Heritage balance – The Stow Park Alteration

7.13. In regards to the Heritage balance for the amended scheme with the Stow Park Alteration, this would address substantive concerns, though the need for temporary interference during the construction phase would mean that less than substantial harm to the setting of the Stow Park SAM would remain. There would still be cumulative harm to the setting of the Roman Villa SAM, less than substantial harm to the settings of a number of listed buildings and harm to a number of non-designated heritage assets. The Secretary of State notes the public benefits as set out above in paragraph 7.11. The Secretary of State considers the historic environment harms would be outweighed by these benefits. The Secretary of State considers that all remaining harms concerning the historic environment would accord with the relevant policy provisions of the 2011 NSP EN-1, 2024 NSP EN-1 and 2024 NPS EN-3. With the Stow Park Alteration, the Secretary of State ascribes minor negative weight to historic environment in the planning balance.

Overall planning balance - The Stow Park Alteration

7.14. The Secretary of State confirms that regard has been given to the ExA's Report, LDPs, the LIRs submitted by WLDC, LCC, NCC, BDC, the 2011 NPSs, the 2024 NPSs, NPPF, PPG, relevant WMSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 105 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

7.15. The Secretary of State considers that, although the Stow Park Alteration results in a reduction in electricity generating capacity, the benefits of the Proposed Development towards increasing the national supply of renewable energy and meeting net zero commitments continue to carry very great positive weight in the planning balance.

7.16. The Secretary of State notes the Stow Park Alteration would reduce the amount of BMV land used, however there are still harms due to the fixed-term, albeit reversible, use of BMV land and the Secretary of State, in agreement with the ExA, ascribes little negative weight to soils and agriculture.

7.17. The Secretary of State considers that the Proposed Development with the Stow Park Alteration would lead to less than substantial harm the Stow Park SAM, and there would be slight adverse effects to the settings of a number of listed buildings, cumulative harm to the setting of the Roman Villa SAM, and harm to non-designated heritage assets, and therefore ascribes minor negative weight to the historic environment in the planning balance.

- 7.18. The Secretary of State considers that removing solar panels from the deer park would not result in any material changes to the other planning considerations such that biodiversity and ecology is ascribed little positive weight, landscape and visual are ascribed moderate negative weight, waste and recycling little negative weight, and other matters are ascribed neutral weighting.
- 7.19. The Secretary of State acknowledges that all NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as being in compliance with the relevant 2011 NPSs, due to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured.
- 7.20. Taking the above factors into account and having had regard to all important and relevant matters, the Secretary of State agrees with the ExA that there are no adverse impacts of sufficient weight, either on their own or collectively, that would suggest that development consent, with the Stow Park Alteration in place, should not be granted. The Secretary of State also agrees with the ExA that the harm identified to heritage assets, agricultural land, waste and recycling, and to the local landscape would be clearly outweighed by the substantial benefit from the provision of low carbon energy to meet the need identified in 2011 NPS EN-1, and further supported by 2024 NPS EN-1 and 2024 NPS EN-3, noting also the benefits to ecology and biodiversity.
- 7.21. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development with the Stow Park Alteration outweigh its adverse impacts. The Secretary of State concludes that development consent should be granted for the West Burton Solar Project and associated development as amended with the Stow Park Alteration.

8. Other Matters

Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector general equality duty (“PSED”). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “*protected characteristics*”: age; gender; gender reassignment; disability; marriage and civil partnerships⁵; pregnancy and maternity; religion and belief; and race.
- 8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.

⁵ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 8.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the Proposed Development.
- 8.4. The Secretary of State is confident that, in taking the recommended decision, he has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any parties with particular protected characteristics.

Natural Environment and Rural Communities Act 2006

- 8.5. The Secretary of State notes the “general biodiversity objective” to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the Application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when making this decision.
- 8.6. The Secretary of State is of the view that the ExA’s Report, together with the ES, considers biodiversity sufficiently to inform him in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

Environmental Principles Policy Statement

- 8.7. From 1 November 2023, Ministers are under a legal duty to give due regard to the Environmental Principles Policy Statement when making policy decisions. This requirement does not apply to planning case decisions, and consequently the Secretary of State has not taken it into consideration in reaching his decision on this application.

9. Modifications to the draft Order

- 9.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:
- a. Amendment to the preamble to the Order to include section 140 of the Planning Act 2008 as part of the Secretary of State’s powers to authorise the development.
 - b. Amendments to the definitions in Part 1, Section 2 (Interpretation):
 - i. Omission of the definition of “the 2009 Act” related to the Marine and Coastal Access Act 2009, to reflect the ExA’s decision to not require a Deemed Marine Licence under the Order and for consistency with the Secretary of State’s changes to the Cottam Solar Project Order and the Gate Burton Energy Park Order. Where the 2009 Act is referenced within the draft Order, the legislation’s full title is provided in footnotes. In accordance with this omission,

there are no references to Deemed Marine Licences or the Marine Management Organisation throughout the Order.

- ii. Omission of the definition of “Stow Park Deer Park land” and “Stow Park Deer Park Plan” to align with an updated Land Plan and Works Plan, and therefore there is no need for separate definitions to be specified in the Order. The omission of the definition of “excluded solar array works” subsequently follows from the removal of works package ‘1C(i), (ii) and (iii)’ as noted in the updated Works Plan.
 - iii. Amendment to the definition of “commence” to include the definition from the Planning Act 2008, as opposed to the definition from the 1990 Act.
 - iv. Amendment to the definitions of “the Cottam Solar Project Order” and “the Gate Burton Energy Park Order” to reflect the statutory instruments, as made. The amendments to the definition of “the Tillbridge Solar Order” reflect that the Secretary of State is yet to make a decision on that specific Order.
 - v. Amendment of “authorised development” and “relevant planning authority” to clarify their purposes in respect of Schedule 1 and 2 respectively.
 - vi. Amendment to the definition of “date of decommissioning” and “date of final commissioning” to reflect the fact that there may be different dates for different parts of the authorised development and associated amendments throughout the Order.
 - vii. Amendment of definition of “without prejudice written scheme of investigation” to “written scheme of investigation”.
 - viii. Insertion of Article 2(3) to clarify that any reference to “authorised development” includes construction, maintenance, operation, use and decommissioning.
- c. Amendments to Part 3 (Streets), inserting Article 15(5)(c) to include the requirement for the undertaker to display identical site notifications of the proposed works at each end of the road affected, for the purposes of safety and for consistency with the Secretary of State’s changes to the Cottam Solar Project Order.
 - d. Amendments to Part 4 (Supplementary Powers), omitting Article 17 (Removal of human remains) and associated footnotes, as it is the Secretary of State’s preference to remove this Article if there are no known human remains within the proposed authorised development’s boundaries.
 - e. Amendments to Part 5 (Powers of Acquisition)

- i. Insertion of additional articles that Article 19 is subject to, including Article 25 (acquisition of subsoil only), Article 28 (rights under or over streets) and Article 47 (Crown rights).
 - ii. Amendment of Article 20(1) to update reference to the Acquisition of Land Act 1946 to the 1981 Act as this is the legislation that currently applies in practice. The same change has been made throughout the Order where applicable.
 - iii. Insertion of Article 20(3) to reflect changes made by section 185 of the Levelling-up and Regeneration Act 2023 to the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981. The 2023 Act provides that the applicable period for the time limit for giving notice to treat and for a general vesting declaration will be that specified in the Order which in this case is five years from the day the Order is made. The purposes of the amendments in Articles 24 and 27 are made for similar reasons.
 - iv. Rearrangement of previous Article 47 (Compulsory acquisition of land – incorporation of the mineral code) to become new Article 21.
 - v. Amendment of Article 22(2) to include the phrase “the table in” for clarity.
 - vi. Amendment of Article 23(1) and (2) to include the words “whichever is the earliest” to clarify the date when private rights and restrictions over land, subject to compulsory acquisition under the Order, are extinguished or cease to have effect.
- f. Amendments to Part 6 (Miscellaneous and General)
- i. Removal of Article 35(3)(c) to reflect the Secretary of State’s preference for consent to be provided for any transfers to group companies.
 - ii. Amendment to Article 35(4) to require additional written notification to the relevant local planning authorities (in addition to the Secretary of State) before the transfer or granting of any benefit under the Order or related statutory right, where the consent of the Secretary of State is not required.
 - iii. Amendment to Article 35(6) provides that the effective date of transfer or granting of benefit to another person is to be ten, rather than five, working days from the receipt of the notification. Additionally, the amendment reflects the Secretary of State’s changes to the Gate Burton Energy Park Order 2024.
- g. Amendments to Schedule 1 (Authorised development)
- i. Amendment to paragraph 1 to simplify the description of the works.
 - ii. Amendment to the end of paragraph 3 to replace “insofar as they are unlikely to give rise to any materially new or materially different environmental effects

from those” with “which fall within the scope of work” to prevent the DCO from inadvertently permitting possible further work with environmental effects that are unlikely to have been assessed. This is consistent with previous DCOs.

h. Amendments to Schedule 2 (Requirements)

- i. Insertion of paragraph 1(a)(vi) to denote Lincolnshire County Council as a “relevant planning authority” for the purposes of long-term flood risk mitigation (Requirement 22).
- ii. Removal of Requirement 3 (Approved details and amendments to them) from paragraph 1(b)(i) as there is a possibility that other planning authorities may need to be involved in the amendment of certain Approved Documents.
- iii. Addition of paragraph 1(c) because the discharge of Requirement 12 (Archaeology) should be done through Lincolnshire County Council and Nottinghamshire County Council.
- iv. Additions to paragraph 1, including “in the case of any requirement not specified above” to provide clarity on when the definition of “relevant planning authority” applies specifically to different affected Councils and when it applies generally, and the addition of Nottinghamshire County Council to the list of affected Councils.
- v. Removal of Requirements 7(2)(a) and (b), 8(2)(a) and (b), 13(2)(a) and (b), 14(2)(a) and (b), 19(2)(a) and (b), and 21(5)(a) and (b), as well as amendments to 11(2) and 16(1), to remove any specific applications or references to the excluded solar array works, in line with the changes as described above at 9.1(b)(ii) noting that the new Land Plan and Works Plan integrates the Stow Park Alteration.
- vi. Amendment of Requirement 12 to account for consultation feedback from Historic England.
- vii. Amendment to Requirement 22(1) to include that consultation must occur with the Lead Local Flood Authority before final submission and approval by the Environment Agency.

i. Amendments to Schedule 9 (Land in which only new rights etc. may be acquired)

- i. Amendment to column (1) to include the following plot reference numbers: 05-055, 05-059, 05-060, 05-061, 05-063, 06-064, 06-066, 06-075. Due to the Stow Park Alteration which is now reflected in the Land Plan and the Book of Reference that was submitted with the Applicant’s Response to a Request for Information, there is an acquisition of rights over these plots rather than an acquisition of freehold.

- j. Amendments to Schedule 13 (Documents and plans to be certified)
 - i. Amendments to columns (1) to (4) of the Part 1 (Documents and Plans) table to include the most up-to-date document names, document references, revision numbers and dates submitted in response to the Secretary of State's Request for Information and to align with changes to the Order. The "Environmental statement appendix 9.12 biodiversity net gain report" and "Figure 8.18.3 landscape and ecological mitigation and enhancement measures West Burton 3 (Revision B)" were new additions to the table.
- k. Amendments to Schedule 14 (Arbitration rules)
 - i. Amendment to paragraph 7 to reflect the Secretary of State's preference that the default position should be that any arbitration hearing and documentation is publicly accessible, rather than private as previously provided, subject to confidentiality or disclosure exceptions in sub-paragraphs (2) and (3).
- l. Amendments to Schedule 15 (Protective provisions) to ensure that ongoing discussions with the relevant third parties are properly reflected. In particular, there have been significant amendments to Part 14 (For the protection of Uniper UK Limited) to reflect the outcome of negotiations with Uniper.
 - i. Amendments to Schedule 16 (Procedure for discharge of requirements)
 - ii. Addition of sub-paragraph 4(2)(a) (Appeals) stipulates that an appeal by the undertaker must either be made within 42 days of the date of a notice of a decision or determination, or where no determination has been made, the expiry of that time period.
 - iii. Addition of sub-paragraph 5(3) (Fees) provides that section 18A of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 will apply to applications made under sub-paragraph (1) of Schedule 16 and a fee payable on or after 1 April 2025.

9.2. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments, changes made in the interests of clarity and consistency, changes made for the purposes of standardised grammar and spelling, and changes to ensure that the Order has its intended effect. The Order, including the modifications referred to above, is being published with this letter.

10. Challenge to decision

10.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

11. Publicity for decision

- 11.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the EIA Regulations.
- 11.2. Section 134(6A) of the 2008 Act provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the Order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the Order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely,



David Wagstaff OBE

Deputy Director for Energy Infrastructure Planning

Department for Energy Security and Net Zero

ANNEX A: LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010132>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AEoI	Adverse Effect on the Integrity
ALC	Agricultural Land Classification
APs	Affected Persons
BDC	Bassetlaw District Council
BDCCS	Bassetlaw District Council Core Strategy
BMV	Best and Most Versatile
BNG	Biodiversity net gain
CA	Compulsory Acquisition
CCGT	Combined Cycle Gas Turbine
CHPS	Cultural Heritage Position Statement
CLLP	Central Lincolnshire Local Plan
CRC	Cable Routing Corridor
CRT	Canal and River Trust
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
DEMP	Decommissioning Environmental Management Plan
EA	Environment Agency
EDF Energy	EDF Energy (Thermal Generation) Limited
EES	European Economic Area
EIA	Environmental Impact Assessment
EMF	Electro-Magnetic Field
ES	Environmental Statement
ExA	The Examining Authority
FRA	Flood Risk Assessment
FTE	Full time equivalent
gCO ₂ e/kWh	grams CO ₂ equivalent per kilowatt hour
GHG	Greenhouse Gas
HE	Historic England
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
kV	Kilovolt
LCC	Lincolnshire County Council
LDP	Local Development Plan
LIR	Local Impact Report
LSE	Likely Significant Effects
MW	Megawatts
MWh	Megawatt hours
NCC	Nottinghamshire County Council
NE	Natural England

NGED	National Grid Electricity Distribution
NGET	National Grid Electricity Transmission
NPPF	National Planning Policy Framework
NPS	National Policy Statement
Northern Powergrid	Northern Powergrid Yorkshire PLC
NRIL	Network Rail Infrastructure Limited
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
oCEMP	Outline Construction Environmental Management Plan
oCTMP	Outline Construction Traffic Management Plan
oDS	Outline Decommissioning Strategy
oEPMS	Outline Ecological Protection and Mitigation Strategy
oLEMP	Outline Landscape and Ecological Management Plan
oSSCEP	Outline Skills Supply Chain and Employment Plan
oSMP	Outline Soil Management Plan
oOEMP	Outline Operational Environment Management Plan
PCC	Parish of Stow-with-Sturton
PoC	Point of Connection
PPG	Planning Practice Guidance
PSED	Public Sector Equality Duty
PV	Photovoltaic
Roman villa SAM	Roman villa west of Scampton Cliff Farm
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SACs	Special Areas of Conservation
SAM	Scheduled Ancient Monument
SMP	Soil Management Plan
SNSE	SNED Ltd, SNSE Ltd and SNSEM Ltd
SoCG	Statement of Common Ground
SPA	Special Protection Area
SSSI	Sites of Special Scientific Interest
SUs	Statutory Undertakers
tCO2	tonnes of CO2
The Applicant	West Burton Solar Project Limited
the 1998 Act	Human Rights Act 1998
The 2008 Act	The Planning Act 2008
The EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
The Proposed Development	West Burton Solar Project and associated development
The TCPA 1990	The Town and Country Planning Act 1990
the Ramsar Convention	The Convention on Wetlands of International Importance 1972
the Secretary of State	the Secretary of State for Energy Security and Net Zero
TP	Temporary Possession
Uniper	Uniper UK Limited

WB1	West Burton 1
WB2	West Burton 2
WB3	West Burton 3
WLDC	West Lindsey District Council
WMS	Written Ministerial Statement
WR	Written Representation
WSI	Written Scheme of Investigation
WP WSI	without prejudice version of the Written Scheme of Investigation