

Date: 30 March 2023
Our ref: 422565
Your ref: EN010133



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T [REDACTED]

BY EMAIL ONLY

Dear Sir/Madam

NSIP Reference: EN010133

Natural England's comments in respect of Cottam Solar Project

Examining authority's submission deadline: 30th March 2023

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

For any further advice on this consultation please contact the case officer Robbie Clarey [REDACTED] and copy to consultations@naturalengland.org.uk.

Yours faithfully

Robbie Clarey

Lead Adviser - East Midlands Area Delivery

Natural England's Relevant Representations

PART I: Natural England's Advice on matters relevant to the Natural Environment. (Page 2-10)

PART II: Natural England's detailed comments on the Development Consent Order (DCO) (Page 11-12).

Part I: Natural England's Advice on matters relevant to the Natural Environment

1. Summary of Natural England's Advice

Overall, Natural England are satisfied that the proposals address the majority of potential impacts to the natural environment. The only areas of concern we consider require further assessment and or information to enable the examining authority to make an informed decision are: Soils and Best an Most Versatile (BMV) Agricultural Land and Protected Species

The key concerns we have regarding Soils and BMV agricultural land are:

- The omission of assessment of the loss of BMV land to each element of the proposal, including biodiversity opportunity areas
- Deficiencies within the Soil Management Plan
- The restoration of the site following decommissioning

The key concerns we have regarding Protected Species are:

- The possible need for protected species licences

Natural England's advice in these relevant representations is based on information submitted by Cottam Solar project Limited in support of its application for a Development Consent Order ('DCO') in relation to the development of a solar and energy storage project ('the project').

Part I of these representations details what Natural England considers the main issues¹ to be in relation to the DCO application, and indicates the principal submissions that it wishes to make at this point. It then sets out all the significant issues which remain outstanding, and which Natural England advises should be addressed by Cottam Solar Project Limited and the Examining Authority as part of the examination process to ensure that the project can properly be consented. These are primarily issues on which further information would be required in order to allow the Examining Authority to properly undertake its task or where further work is required to determine the effects of the project.

Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.

Our comments are set out against the following sub-headings which represent our key areas of remit:

- Internationally designated sites

¹ PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

- Nationally designated sites
- Protected species
- Biodiversity Net Gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land
- Ancient woodland and ancient/veteran trees
- Connecting people with nature (National Trails, open access land and England Coast Path)
- Other valuable and sensitive habitats and species, landscapes and access routes

Our comments are flagged as red, amber or green:

- **RED** are those where there are fundamental concerns which it may not be possible to overcome in their current form.
- **AMBER** are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.
- **GREEN** are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured)

Part II of these representations contains our detailed comments on the draft Development Consent Order (DCO).

Natural England has been engaged by the applicant via our Discretionary Advice Service (DAS) for this project. This advice has been provided within the application by the Applicant at Appendix 9.1 Item 5. To summarise, we have provided comment on:

- Survey methodology for Great Crested Newts, Bats, Water Vole and Otter.
- Sources of impact to designated sites and the above species.
- Outline approaches to mitigation for potential impacts to designated sites and the above species.
- Likelihood of impacts to designated sites (International and Nationally Designated sites only).

We have also provided comment at the statutory EIA Scoping and Section 42 consultation stages of the project.

We have not been engaged regarding the development of a Statement of Common Ground (SoCG) or any other supporting documentation, such as a Letter of No Impediment (LoNI). If the applicant wishes to develop any such documentation, further engagement should be sought in due course. In the absence of a SoCG, Natural England advises that the matters set out in these representations will require consideration by the Examining Authority as part of the examination process.

The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

2. Detailed Advice on the natural features potentially affected by this application

Internationally Designated Sites – GREEN

Our position regarding impacts on internationally designated sites is set out below.

Impacts to internationally designated sites are discussed within ES Chapter 9 (Ecology and Biodiversity) and the 'Information to Support a Habitats Regulations Assessment' contains a more detailed assessment of potential impacts to these sites. Natural England have worked with the applicant through our Discretionary Advice Service, including providing advice regarding potential impacts to Internationally Designated Sites.

The 'Information to Support a Habitats Regulation Assessment' concludes that no significant effects are likely to occur. Natural England concur with this conclusion. Our further comments are set out below.

Information to Support a Habitats Regulations Assessment - Section 5.1 Humber Estuary SAC

Natural England note the hydrological connectivity between the development site and the Humber Estuary SAC, however, due to the low likelihood and small scale of potential pollution events from the development activities, and distance to the SAC, a conclusion of no Likely Significant Effects is suitable.

Information to Support a Habitats Regulations Assessment - Section 5.2 Thorne Moor SAC & Hatfield Moor SAC

Thorne Moor SAC and Hatfield Moor SAC are both physically and hydrologically separated from the development site. In addition, the notified features of these sites are immobile in nature; as such, a conclusion of no Likely Significant Effects is suitable.

Information to Support a Habitats Regulations Assessment - Section 5.3 Thorne & Hatfield Moors SPA

Thorne and Hatfield Moors SPA is notified for its Nightjar populations. Nightjar are a mobile species and thus can be impacted via losses of, or changes to, functionally linked land. 'Functionally-linked land' ('FLL') describes areas of land or sea occurring outside of a designated site which nonetheless are considered to be critical to or necessary for the ecological or behavioural functioning in a relevant season of a qualifying feature for which that site has been designated.

Site surveys show that within the order limits there are no heathland or woodland habitats likely to be of interest to Nightjar. Additionally, survey results showed no recordings of Nightjar and no potential for their presence within the order limits. As such, Natural England consider the order limits do not constitute functionally linked land for Nightjar and concur with the conclusion of no Likely Significant Effects.

Information to Support a Habitats Regulations Assessment - Section 5.4 Birklands and Bilhaugh SAC

Birklands and Bilhaugh SAC is both physically and hydrologically separated from the development site. In addition, the notified features of the site are immobile in nature; as such, a conclusion of no Likely Significant Effects is suitable.

Information to Support a Habitats Regulations Assessment - Section 5.5 Humber Estuary SPA

The Humber Estuary supports a variety of wintering, passage and breeding birds, including internationally important populations of a number of species. As such, loss of, or changes to, functionally linked land could have a significant impact on SPA birds. Site surveys have shown species for which the SPA is notified flying over, foraging or sheltering within the order limits. Natural England consider the numbers of, and frequency of, birds noted within site surveys, when compared to the SPA populations as a whole, not to be significant enough to render the order limits critical to or necessary for the ecological or behavioural functioning of the relevant qualifying feature and thus concur that the order limits are not functionally linked to the SPA. We concur with the conclusion of no Likely Significant Effects.

Nationally Designated Sites - GREEN

Natural England's position regarding nationally designated sites is set out below.

Section 9.7 of ES Chapter 9 is an assessment of effects to ecology and biodiversity, including on Nationally designated sites.

ES Chapter 9 Section 9.7.6 – 9.7.12: Scotton Common SSSI, Scotton Beck Fields SSSI, Scotton and Laughton Forest Ponds SSSI, Laughton Common SSSI & Tuetoes Hill SSSI

Natural England advised within our DAS response that Cottam 3 lies partially within the surface water catchment of Laughton Common SSSI. The ES points out that Cottam 3 is likely to drain to the Northorpe Beck, which flows downstream of the designated site. As such, this impact pathway may not be relevant.

Despite the possible absence of a hydrological link to the SSSI, the CEMP and EPMS contain measures to prevent pollution. We consider that where the order limits and the SSSI were linked, these measures would nonetheless prevent any significant impacts to the notified features of the SSSI.

- Table 3.3 of the outline CEMP includes: 'measures to limit the mobilisation of sediments and run-off, such as when working in very wet conditions or the use of silt fencing when working in ditches'.
- Table 3.4 of the oCEMP addresses hydrology, flood risk and drainage, including measures to ensure pollution events are avoided, minimised and contained through a number of means.
- oEPMS Method Statement 3 also includes details of measures to be used to prevent pollution during construction. These are aimed primarily at protecting adjacent and on site habitats, but the measures outlined here will contribute to protection of the wider water environment from pollution.

Due to the physical separation of these SSSIs from the order limits and immobile nature of their interest features, we consider other direct impacts to be unlikely.

ES Chapter 9 Section 9.7.39 – 9.7.44 Ashton’s Meadow SSSI & Treswell Wood SSSI

Due to the separation from the order limits of these two SSSIs and the non-mobile nature of their interest features, we consider significant impacts to be unlikely.

Protected Species - AMBER

Natural England’s position regarding European Protected Species is set out below.

Natural England have provided advice via our Discretionary Advice Service regarding Great Crested Newts, Bats, Water Voles and Otters. This advice has been provided within the application at Appendix 9.1 Item 5.

As it stands, ES Chapter 9 indicates that no protected species licences are required from Natural England, although it is noted that a number of licences may be required where avoidance is not possible.

- At Section 5.3.2 of the Outline Ecological Protection and Mitigation Strategy (oEPMS) it states that where bat roosts are discovered a licence will be required from Natural England.
- Section 5.6.4 of the oEPMS notes that a licence from Natural England will be required where impacts to Otter and Water Vole Holts, Burrows and Sheltering Sites are unavoidable.
- Section 8.4.2 of the oEPMS also notes that in the event that an active sett is to be unavoidably impacted by construction activities, a licence from Natural England would likely be necessary.

As there may be a requirement for protected species licences from Natural England, we would like to flag this within our representations, but acknowledge that there may be a circumstance where no licences are required; as such this would not pose a significant obstacle. At this stage, Natural England have not been engaged regarding the production of a Letter of No Impediment (LoNI) for protected Species Licences; should this be required submission of draft protected species licence applications would be required for review.

Aside from these comments, our advice at this stage is limited to our [Standing Advice](#).

Biodiversity Net Gain - GREEN

Natural England’s position regarding provision of Biodiversity Net Gain is set out below.

Biodiversity Net Gain is a demonstrable gain in biodiversity assets as a result of a development project that may or may not cause biodiversity loss, but where the final output is an overall net gain. The Environment Act has set out that Biodiversity Net Gain will be mandatory for the majority of new development from November 2023 and mandatory for NSIPs in 2025. Whilst Biodiversity Net Gain is not yet mandatory, it is considered best practise to deliver a measurable net gain through any new development.

Natural England acknowledge the production of Appendix 9.12 (Biodiversity Net Gain Report), which illustrates via use of the Biodiversity Metric 3.1 that the proposal will give rise to gains for biodiversity in the magnitude of 96.09% for habitat units, 70.22% for hedgerow units and 10.69% for river units. This is in exceedance of the intended 10% mandatory gain and is welcomed.

Biodiversity Enhancements

- Overall, Natural England welcome the biodiversity enhancement proposals, illustrated in the Landscape and Ecology Mitigation and Enhancement Plans (ES figures 8.16.1 to 8.16.10) which include a variety of habitats complimentary to the local environment.
- Biodiversity enhancement areas are focussed along linear features across the order limits, which will contribute to enhanced biodiversity value, but also to increased connectivity throughout and across the order limits, thus contributing to the Nature Recovery Network. In particular, we note the enhancements along the course of the River Till, which will maintain and improve this as an important blue-green infrastructure corridor.
- The provisions of the oLEMP are also noted, which outline appropriate management measures to ensure the maximum benefit for biodiversity is realised during the operational phase of the scheme. We would, however, encourage further detail to be provided within the LEMP to cover management actions to be taken where a specific habitat fails to establish.

Nationally Designated Landscapes - GREEN

Natural England's position regarding nationally designated landscapes is set out below.

The proposed development is not located within, or within the setting of, any nationally designated landscapes. As a result, Natural England has no specific comments to make on the landscape implications of this development. The examining authority should have regard for the landscape character of the area; we welcome the reference to Natural England's National Character Areas and other Local Landscape Character Assessments within ES Chapter 8 (Landscape and Visual Impact Assessment). We would also like to stress the importance of cumulative landscape impacts from the development; note the significant number of other solar developments proposed in Lincolnshire, Nottinghamshire, and Rutland.

Soils and best and most versatile agricultural land - AMBER

Natural England's position regarding soils and the best and most versatile agricultural land is set out below.

Under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20 ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

It is acknowledged that the detailed ALC survey has been used to influence the Proposed Development lay out, with the panels placed away from the highest quality agricultural land. Whilst there continue to be areas of BMV land within the order limits, large areas of high quality land have been excluded from the order limits altogether. For example, in the south western area of Cottam 1, where ALC survey has identified a significant area of Grade 2 and 3a land, this has subsequently not been included in the order limits.

Based on the information provided within the Environmental Statement (ES) (Chapter 19: Soils and Agriculture and Appendix 19.1 Agricultural Land Quality, Soil Resources & Farming Circumstances), it appears that the proposed development will result in the temporary development of 1179.7ha, of which 48.1ha is BMV agricultural land (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system), as determined from detailed ALC surveys. It is acknowledged that some of the order limits will comprise retained arable fields and 'set aside' land. Within the Order Limits, 29ha are proposed to be permanently lost, of which none is BMV.

Section 19.3.7 states that no soils data or farming circumstances assessment has been undertaken along the cable route corridor. Section 19.8.4 states 'A dedicated soil survey of the corridor will be undertaken as part of an agreed Soil Management Plan'. Section 4.1.1 of the oSMP sets out the requirement for specific soil sampling along the cable route prior to works commencing. Natural England advise that this should be made a requirement of the DCO, along with restoration of the cable trenches to their ALC grade prior to operation of the scheme, to ensure the impacts along the cable route are only temporary as described.

No breakdown of agricultural land quality has been provided for each element of the development. The discussion within chapter 19 is limited to the ALC grade of the whole site, and the area to be permanently lost to the substation and power storage infrastructure (29ha). The ES (Chapter 19) should include additional information to clearly show the amounts and proportions of agricultural land, including BMV across the full Order Limits, impacted by each element of the Proposed Development, including permanent infrastructure, temporary solar PV arrays; retained arable fields/set aside land and other mitigation and enhancement options (i.e. Biodiversity Opportunity Areas) to properly inform an assessment of impacts.

During the life of the proposed development, it is likely that there will be a reduction in agricultural production over the whole development area. Furthermore, if not time limited as described, the proposed development has the potential to lead to the permanent reduction in agricultural production. This should be considered whether this is an effective use of land in line with the National Policy Statement for Energy (EN-1) and Renewable Energy Infrastructure (EN-3), which encourages the Applicant to seek to '*minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations*'.

We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013) and advise you to fully consider BMV land issues in accordance with that guidance.

Chapter 19 section 19.9.13 sets out the potential soil resource benefits of the scheme. It should be noted that whilst arable reversion to grassland has been shown to benefit Soil Organic Matter (SOM), this benefit will only extend to the duration of the reversion, i.e., during the operational phase and restricted to those areas of land currently under cultivation. However, there could be a disbenefit to the soil resource due to unknowns as a result of the solar development infrastructure. It is currently unclear as to what impact the solar panels may have on the soil properties such as carbon storage, structure and biodiversity. For example, as a result of changes in shading; temperature changes; preferential flow pathways; micro-climate; and vegetation growth caused by the panels. Therefore, it is unknown what the overall impact of a temporary solar development will have on soil health.

It is considered that as the solar panels would be secured to the ground by steel piles with limited soil disturbance, they could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Consequently, Natural England would advise that any grant of planning permission should be made subject to requirements to safeguard soil resources and agricultural land. The potential impact on agricultural land and BMV land could be lessened if the Proposed Development was time limited.

General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g., in relation to handling or trafficking on soils in wet weather.

The British Society of Soil Science has published the [Guidance Note](#) Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed.

Natural England welcomes the preparation of an Outline Soil Management Plan (oSMP) which has been prepared and submitted with the application. We have made some specific comments on the oSMP below:

- The proposed requirements in oSMP section 8 should make reference to the [Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#).
- oSMP section 7.1.2 states 'A map of topsoil units will be prepared as a requirement of the SMP and retained to ensure topsoil units are restored to their original location', which is welcomed. The stockpiled soils should be labelled and protected from trafficking and damage. Any soil stockpiles in place for more than 6 months need to be seeded.
- Section 8.7 of the oSMP sets out the details of the decommissioning requirements, however, Natural England consider that specific requirement for restoration of arable land occupied by the Solar PV site to its former ALC grade where appropriate, should be secured through the SMP. This would comprise an example of implementing good practice to assure restoration of the land to the baseline ALC grade, minimising the potential loss of soil functions.
- The restoration criteria need to be set out in the detailed SMP, including the restored ALC grade for all land within the Order Limits. This could be set out similarly to the proposals for mapping stored soils in section 7.1.2.
- Specific soil sampling along the cable route should be made a requirement of the DCO, to ensure operations and restoration are correctly informed and the cable route is restored to its current ALC grade.
- Tall vegetation / crops should be cleared prior to topsoil stripping.
- Areas of the site which are not to be stripped or used for stockpiling, haul routes or compounds must be clearly marked by signs and barrier tape and protected from trafficking and construction.
- The scope of the oSMP should be expanded to include the soil management of the land under any proposed Biodiversity Opportunity Areas, and aftercare. Although there is no soil movement proposed in these areas, soil trafficking may occur and therefore mitigation measures need to be in place to minimise the potential impact on the soil resource.

Ancient woodland and ancient/veteran trees - GREEN

Natural England's position regarding ancient woodland and ancient/veteran trees is set out below.

Natural England advise that impacts on ancient woodland and ancient and veteran trees should be considered in line with paragraph 180 of the NPPF. Natural England and the Forestry Commission have also produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. We note that there is no Ancient Woodland or ancient/veteran trees within the order limits or within close proximity; as such, have no detailed comments to make.

Connecting people with nature - GREEN

Natural England's position regarding access is set out below.

There are no National Trails, Open Access Land or Coast paths within the order limits; as such, no impacts to these features are likely.

Public Rights of Way are discussed in depth within ES Chapter 8, which states at section 8.7.33 in reference to the Cottam 1 site that 'the aim is to enhance the existing network especially where there is potential connectivity to the river corridors and their flood plains for their recreational importance'. We welcome the retention of all PRow within the order limits and the intention to keep them open throughout all phases of the development. We also note the provision of an additional permissive footpath connecting Stow to the development site and to existing PRow through and near to the site. Nonetheless, we note that further provision for access across the site could be achieved through the development; would provide additional benefit to local residents and users of the PRow network. Access around areas proposed for Biodiversity Enhancement could provide and promote access to nature.

3. Natural England's overall conclusions

The main issues raised by this application relate to Best and Most Versatile Agricultural Land and Protected Species.

We consider further work is required to fully assess the extent of impacts to Best and Most Versatile Agricultural Land, including from Biodiversity Opportunity Areas. In addition, we consider there to be deficiencies in the Soil Management Plan, which must be addressed to ensure soil resources are managed and maintained appropriately during construction and for the lifetime of the development.

As there may be a requirement for protected species licences from Natural England, we would like to flag this within our representations, but acknowledge that there may be a circumstance where no licences are required; as such this would not pose a significant obstacle. At this stage, we cannot comment as to whether any future licences would be granted.

Natural England's concerns regarding impacts to other elements of the natural environment have been addressed within the ES submission and, subject to the appropriate use of DCO requirements, we consider impacts to these elements can be ruled out.

Natural England does not intend to make oral representations regarding this examination but is happy to work with the applicant and examining authority to ensure the development will not have adverse impacts on the natural environment.

Natural England's Relevant Representations

PART II: Natural England's detailed comments on the Development Consent Order (DCO) and associated documents

Page	DCO or omission ref	Natural England's comments	Risk (Red/Amber/Green)
44	Requirement 7 – Landscape and Ecological Management Plan	Natural England welcomes the inclusion of a requirement for the LEMP; consider the measures as set out in the oLEMP to be satisfactory in protecting the elements of the natural environment which represent the key areas of our remit.	GREEN
44	Requirement 8 – Ecological Protection and Mitigation Strategy	Natural England welcomes the inclusion of a requirement for the EPMS; consider the measures as set out in the oEPMS to be satisfactory in protecting the elements of the natural environment which represent the key areas of our remit.	GREEN
44	Requirement 9 – Biodiversity Net Gain	Natural England welcome the inclusion of a requirement for a Biodiversity Net Gain strategy to be produced, however, would recommend that this requirement makes it a necessity for a minimum of 10% Net Gains in habitat, hedgerow and river units to be delivered.	AMBER
45	Requirement 13 – Construction Environment Management Plan	Natural England welcomes the inclusion of a requirement for the CEMP; consider the measures as set out in the oCEMP to be satisfactory in protecting the elements of the natural environment which represent the key areas of our remit.	GREEN
45	Requirement 14 – Operational Environment Management Plan	Natural England welcome the inclusion of a requirement for the OEMP.	GREEN
46	Requirement 17 - Permissive Paths	Natural England welcome the specific requirement for the proposed permissive footpath; timing of it's opening.	GREEN

46	Requirement 18 – Public Rights of Way	Natural England welcome the requirement for a Public Rights of Way Management plan to retain access throughout all development phases.	GREEN
46	Requirement 19 - Soils Management	Natural England welcome the requirement for production of a detailed soil management plan, however, we consider additional information must be included in the plan that is not currently outlined in the oSMP. Our specific comments on the contents of the SMP can be found in the section of this letter entitled 'Soils and best and most versatile agricultural land' (pages 7- 9).	AMBER
47	Requirement 21 - Decommissioning and Restoration	<p>Natural England welcome the requirement for a decommissioning plan; for its production within 12 months of the decision to decommission the development.</p> <p>As noted within our above comments on Soils and best and most versatile agricultural land, we consider the implementation of a time limit within the DCO would reduce the potential long-term impact on agricultural land and BMV land.</p>	AMBER

