

Aldington & Mersham Support Group Comments on the Applicants Responses to Relevant Representations (REP1-061)

Introduction

The Applicant has responded to our **Relevant Representation (RR-003)**. The following document details our comments to this response in the order in which they were responded to by the Applicant. The relevant sections from the Applicant's response are shown in italics with our comments below. We have also made comments regarding the Draft **DCO (APP-015)** and the **Funding Statement (REP1-012)**.

BESS

*“The Applicant has consulted with Kent Fire and Rescue (‘FRS’) on the layout and approach to BESS. **The Outline Battery Safety Management Plan (Doc Ref. 7.16) [APP-161] (‘OBSMP’)** explains how the BESS will be safely managed across the Site in accordance with National Fire Chiefs Council Guidance, and also details the engagement to date with Kent FRS (section 3.1)”.*

The OBSMP does not provide sufficient details on the amount of water that will be stored on site, but from the stated size of the water towers, it is totally insufficient for one BESS fire, let alone multiple fires occurring simultaneously. The advice given by Kent FRS regarding the amount of water required to fight a BESS fire is at odds with that given by other Fire and Rescue Services. The OBSMP does not describe how KENT FRS will access each of the 26 BESS sites. It is essential that the OBSMP has to be of sufficient detail to justify the concept distributed battery locations.

*“**Section 16.7 of ES Volume 2, Chapter 16: Other Topics (Doc Ref. 5.2) [APP-040]** assesses the risk of major accidents or disasters as a result of the Project. The assessment concludes that, given the proposed mitigation and best practice measures proposed, and the low risk of an event occurring for this type of development, no significant effects are likely”.*

Worldwide experience has shown that Lithium-Ion batteries are inherently dangerous with a significant risk of both fire and explosion. The probability of such an event maybe relatively low, but the consequences will be very significant and the worst-case scenario has to be planned for adequately.

*“It is noted that the distances for battery locations secured in the **Works Plans (Doc Ref. 2.3(B))** significantly exceed the National Fire Chief's Council and National Fire Protection Agency recommended distances”.*

The recommended distances (from residential properties) are totally at odds with modelling work carried out by the Engineering Consultancy Atkins for the Northern Ireland HSE. This work shows that levels of Hydrogen Fluoride can cause an Imminent Danger to Life and Health at a

distance of 240m downwind from a BESS fire. There are more than 25 residential properties within 300m of at least one battery enclosure.

“ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A)) [AS-010] sets out that the design for the Project employs a distributed approach with four individual containerised BESS Units located at any one Inverter Station, with a maximum of two Inverter Stations (and therefore eight units) being located in any one area of the Site, as opposed to locating all BESS Units in a single centralised compound area. Table 5.4 of ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A)) [AS-010] sets out a number of benefits to this approach”.

The distributed location of the BESS is we believe a unique proposition in this country and possibly globally. It is noteworthy that the National Fire Chiefs Council Guidance does not cater for such a scenario. **Table 5.4 of ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A)) [AS-010]** does indeed set out a number of benefits to the distributed approach of locating the BESS. We do believe that it is a reasonable expectation that the Applicant consider the pros and cons of their approach to locating the batteries, rather than just listing the benefits, as they have done in this document. Given the significant impact of a BESS fire on residential properties, a single battery compound should be located as close as possible to the Sellindge Converter Station and as far as possible from residential properties, as is the case with the approved EDF (Pivot Power) BESS. The benefits of a centralised location away from residential properties include,

- better security.
- better and clearer access for fire services.
- easier provision of the large quantities of water required for handling fires.
- reduced visual impact and industrialisation of the rural landscape.
- reduced risk to the community from toxic fumes

Biodiversity

The Applicant has provided an inadequate response to the issues raised regarding Biodiversity.

The Applicant refers us to **Design Principles (Doc. Ref 7.5 (A))**.

“Security Fencing / Boundary Treatments. “Security fence gates will be provided for maintenance, habitat management, passage of mammals, security purposes and fire response access”. Security fencing within Fields 19, 23 and 24 will have a minimum clearance space of 0.2m between the bottom of the security fence and the ground, and with minimum mesh spacing of 0.1m”.

The Applicant also directs us to **Requirement 4 of Schedule 2 Draft DCO Doc. 3.1** indicating that the DCO will *“secure the use of mammal gates within the security fencing to ensure mammal movements are not restricted”.*

The true position is that mammal movements **will be restricted** because the only means of them accessing existing foraging areas will be through an unspecified number of mammal gates. Why has the Applicant not indicated a minimum number of these gates to be installed?

The Applicant refers to the **Outline Landscape and Ecological Management Plan Doc ref 7.10 and** at 5.2.2 confirms that *“The Project boundary fences will **look to** include ground level gaps*

and/or mammal gates to allow movement of species, such as brown hare and badger”. (Bold font our emphasis).

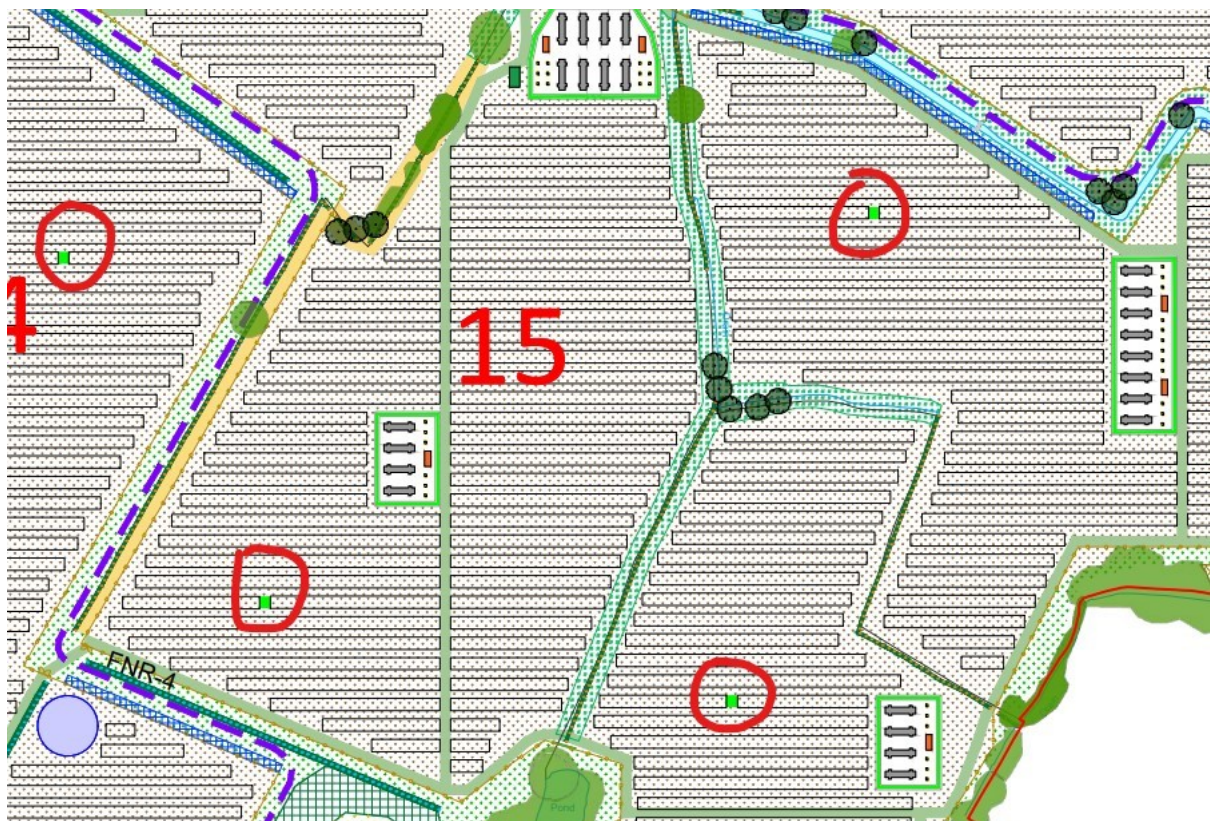
Why has the Applicant not said, “will include” rather than that it will “look to include”?

Skylark

Why does the Applicant refer to arable land as “*arable monoculture cropland*”. It seems to be a phrase unique to this scheme, not used at all in the agricultural world. Ironically it is exactly this land which, as the Applicant has observed, provides habitat that supports important ground nesting birds like Skylark and Lapwing.

The Applicant makes much of the biodiversity improvement areas that have been included notably to the north of the East Stour River. Large parts of this area are destined to be Tussock Grassland. This may suit land like this which routinely floods each winter but is hardly suitable as replacement Skylark habitat particularly when this species favours short grassland or arable fields which are not close to woodland (because of predation risk). Note fields 27 and 29 are relatively small (not optimal for Skylark), adjacent to established hedges, sporadic woodland by the river and Backhouse Wood.

This leaves the so-called “Skylark Plots” to achieve compensation for lost nesting habitat which are the tiny green squares on the plan below which is an extract from the Applicant’s illustrative plan **Doc. Ref 2.7** (note, not for approval).



Possibly the Applicant’s ecologists consider that the recommended 2 No.16 m² Skylark plots/HA recommended for increasing Skylark numbers in autumn sown cereals (as shown below) is equally applicable when located in the middle of the metal and glass of a solar array.

If so, where is the evidence that this has worked in the same way to increase Skylark nesting, and what happens if this mitigation proves to be inadequate? Will some of the panels be removed?



Locating these tiny squares in amongst the panels which themselves can be 3.5 m high (very suitable for predator perching) will offer nothing by way of compensation habitat for the loss of the large amount of so-called arable *monoculture* cropland which in recent years has seen increasing numbers of ground nesting birds – particularly Skylark (where the main landowner has in the past erected signs to encourage dog walkers to keep dogs on leads to avoid disturbing nesting Skylark).

Compensation

The Applicant has pointed to the availability of the Compensation Code in response to the concerns we have raised. During the Preliminary Hearings, we specifically asked the Exa whether the right for an individual to claim for any physical effects that amount to a statutory nuisance (e.g. noise from batteries and/or inverters) would be available on account of disapplication provisions. We were specifically told that the Land Compensation Act 1973 would not apply (which would ordinarily allow individuals to claim for physical effects on property value caused by a scheme with statutory powers but where no land was taken).

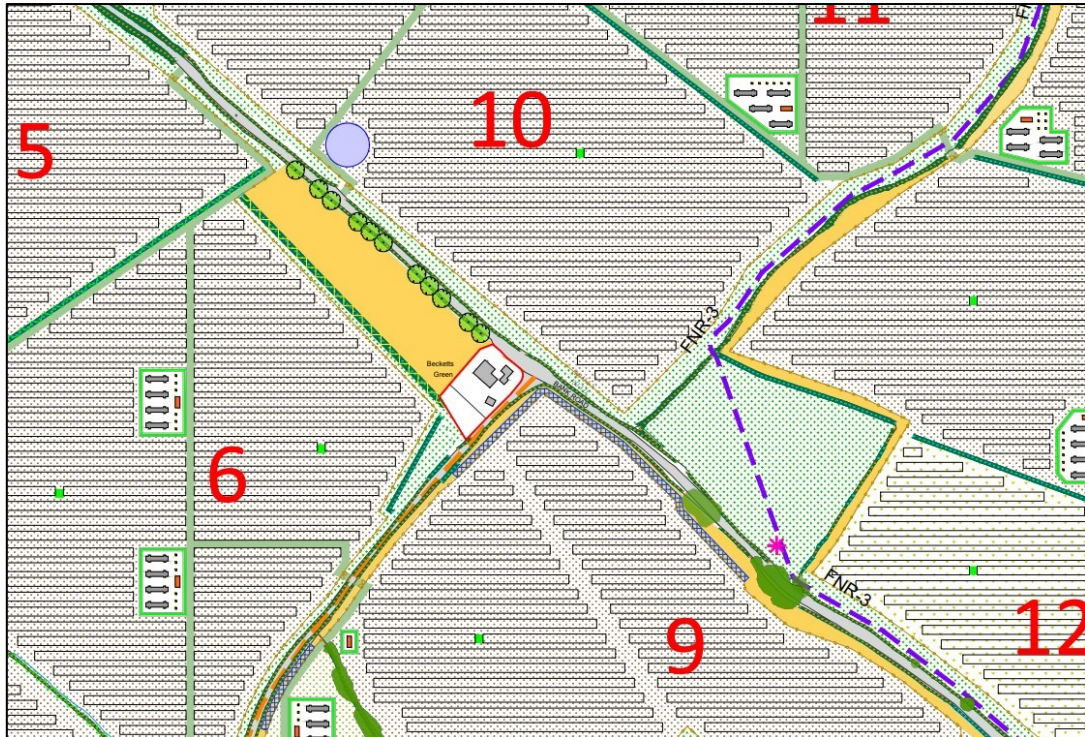
Despite the suggestion from the Applicant for individuals to speak to its agent, unless the Applicant chooses to compensate such individuals, it seems there is absolutely no recourse available to any affected homeowner, no matter how grievous the physical effect/nuisance may be over the next 40 years. If the position is otherwise, then perhaps the Applicant can explain.

The Applicant makes much of the fact that changes to the design were made “*as far as possible*” and “*where possible*”. It should perhaps consider what **EDF Renewables (East Stour Solar Farm – Appeal Ref: AP-90705)** has done on its adjoining scheme where the panel footprint is at no point closer than 150 m from any residential property. Contrast this with the attitude adopted in this Applicant’s dealings with Mrs Chafer at Beckett’s Green which stands to be transfigured by the scheme. We know from discussions with Mrs Chafer that she was not

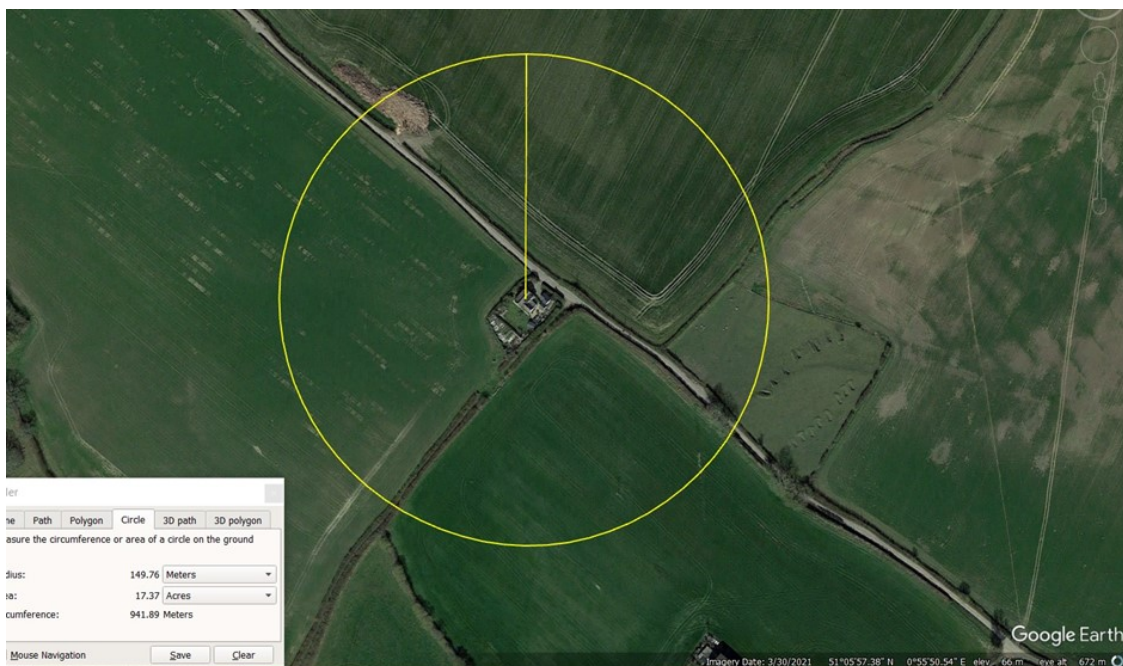
consulted prior to the first statutory consultation and since then she has had to fight for every small change.

The plan below shows the meagre changes offered by way of reduced footprint (shaded orange to the northwest of her house).

Why can't the applicant offer the same safeguarded area to Mrs Chafer as EDF have offered to homeowners and if not, why won't they *volunteer* to compensate her for her loss?



Beckett's Green: The applicant's proposed layout of BESS and panel footprint



Beckett's Green – The 150m zone of protection if EDF's approach had been adopted

The Applicant all too quickly relinquished fields 26 – 29 apparently without any material impact on the scheme’s viability. Why can it not be more generous to Mrs Chafer while at the same time reducing visual impact on this highest part of the scheme? All the land within the circle is above the 58m contour – the area of the scheme with the greatest visual impact.

Consultation

The Applicant relies on the Planning Inspectorate’s acceptance of its compliance with the PA 2008 and associated regulations without addressing the many omissions in what it has done. The Applicant talks about the way in which it undertook non-statutory engagement and how it consulted in a variety of ways to “*maximise Consultee participation*”.

On 31st January 2024 we submitted to Ashford Borough Council a very detailed critique on what we saw as the inadequacy of the Applicant’s consultation. What we and so many in the local community see as the failure of this phase of the DCO is not in relation to the sequencing of the various consultations and notifications that were undertaken but instead the quality of the work done and the way it was presented – particularly at information events. The lack of open and genuine engagement with the community means that the community is still largely in the dark about the impact this scheme will cause.

It is no coincidence that the thread of the applicant’s failure to engage with the community in a genuine and open way with information and material presented in a way that allowed them to make an informed view about this proposal, runs through each of the various aspects of the scheme we have identified as being completely unacceptable.

It would have been so much easier to achieve a viable scheme, of good design, if the applicant had taken a different and more open approach. Instead, the community is now left waiting to see what will be handed down to it at the end of the process, most realising that there has been (and will be) nothing more that they can do to lessen the impact the project will cause to Aldington and Mersham residents for at least the next 40 years.

Cultural Heritage

With reference to the **Heritage Statement (REP1-105)** prepared by Peter Spencer BA MA MCIfA on behalf of Aldington and Bonnington Parish Council, the Applicant has concluded that the “archaeological landscape” within the DCO order limits is of low importance, when in fact their own contractor’s work and that of Peter Spencer have shown that the presence of Iron Age and Romano-British period remains either side of Bank Road are likely of regional importance. The potential for Palaeolithic remains along the cable route corridor as identified by Peter Spencer would be considered to be of high national and regional significance.

The piling of solar panels and other infrastructure would impact directly on potential archaeological remains and it is clear that for large areas of the proposed scheme the panels will have to be located on concrete pads to avoid such damage. At this stage it is clear that both Peter Spencer and KCC conclude that a robust evidence base has not been collected to sufficiently inform the proposed archaeological mitigation. In particular the paucity of trial trenching in relation to the size of the site and archaeological potential is of particular concern.

Above ground we are concerned about the impact on the setting of listed buildings within the DCO order limits and adjacent areas. In particular the setting of the Grade II* listed Stonelees along Laws Lane will be very badly affected by the proposed industrial landscape. The following infrastructure will be located in close proximity to Stonelees:

- solar panels,
- battery enclosures
- a water storage tank
- fencing with CCTV cameras
- a permanent site entrance

In our opinion this will undoubtedly have a significant effect on the setting of this important building.

Section 7.7.67 of the ES Vol 2 Chapter 7_Cultural Heritage (APP-031) claims that new hedgerow planting will screen the project from the approach to Stonelees, along Laws Lane. If indeed this were the case, it would not apply in the winter months when fields 3 and 7 can be seen clearly through the hedges.

The same report does not consider the approach to Stonelees from the southeast along PROW AE370, from which the setting of the property on the flanks of the Aldington Ridge can be appreciated by walkers. All of this will be lost if the proposed project goes ahead.

The country's need for renewable energy is clear, but this should not be at the unnecessary expense of our historic buildings. As per Historic England's advice the solar panels, batteries, permanent site access and associated infrastructure should be removed from the southern part of fields 3 and 7.

Flood Risk

The surface water flood risk associated with the local drainage system which drains fields 3,4,5,6 and 7 has not been properly assessed through hydraulic modelling as recommended in section **9.5.2 of the Flood Risk Assessment (APP-094)**. The catchment area for this drainage system is in excess of 100 acres and contains eight battery enclosures. No account has been taken of the cumulative effect of these impermeable surfaces on the increased flow of surface water through this drainage system and the potential increased flood risk at Spring and Bow Cottages and further downstream along Flood Street.

Landscape and Visual

The submitted landscape visualisations as set out in **ES Volume 4, Appendix 8.10: LVIA Visualisations (Doc Ref. 5.4(A)) [AS-014]** are not of sufficient resolution to allow proper assessment of the visual impact of the scheme. For example, from Viewpoint 31 it is impossible to discern the battery enclosures and water towers due to the low resolution of the imagery.

We do not believe that the way the Landscape Visualisations were presented to the community during the consultation process followed the Landscape Institute's recommendations, as outlined in their Technical Guidance Note (TGN 06/19). When the Applicant was asked to provide better visualisations after the first Statutory Consultation in Autumn 2022, they responded by displaying none at all in subsequent consultations.

Whilst NPS EN-1 acknowledges that all proposed energy infrastructure is likely to result in some adverse visual effects, the decision to locate a large part of the proposed Stonestreet Green Solar generating station on the Aldington Ridge has resulted in an unacceptable visual impact that cannot be mitigated.

PROW

The response by the Applicant fails to address the key points that we have made.

In the Applicant's **Environmental Statement, Volume 2, Chapter 5: Alternatives and Design Evolution** it states that the site was *selected by the applicant* based on a series of influencing factors which included the "**PROW network**":

How can the Applicant possibly maintain that the PROW network was an *influencing factor* in selecting the site when it is manifestly obvious that there are so many footpaths that stand to be adversely affected by the proposal?

In the Applicant's Outline RoWAS (**Doc Ref 7.15**) at paragraph **2.1.6** it provides at **Table (2-1)** details of no less than 14 PROW which will either be extinguished or diverted (many with radical and less convenient diversion routes). On what basis can the Applicant claim that this site was selected on account of the PROW network?

There is still no response from the Applicant as to why it is not prepared to include additional hedge planting adjacent to the security fencing to mitigate the serious visual impact that will be experienced by walkers using both the remaining and diverted footpaths? Other schemes (including the adjoining EDF Renewables project – East Stour Solar Farm (referred to above) have provided this mitigation. Why not the Applicant?

We already know that the Outline RoWAS provides for a Rights of Way and Access Working Group which will review "Implementation Plans" but this was not our question. We were asking why, despite the Applicant's clear promise to the Community Liaison Panel meeting to offer to set up a Working group to discuss the *proposed changes to PROW* it then decided not to do this? This new proposal of discussing the way in which such major changes to the network that it has already decided upon *will be implemented* (post DCO) is, as the Applicant well knows, completely different from being engaged with the community (as was promised) in the formulation of the plans.

In summary our questions raised on PROW have not been addressed and we hope that the EXa will seek responses on these issues.

Site Selection/Consideration of Alternatives

The Applicant has supplied very little of substance in response to our representation on Alternative Land.

It is difficult to understand how it reaches the conclusion that it does in its own Planning Statement (**Doc. Ref 6.4**):

Conclusion

- 6.4.48 In conclusion, the Project delivers good design in the context of efficiently delivering large scale renewable energy infrastructure whilst providing an enhanced network of environmental features which deliver a range of ecosystem services, incorporating biodiversity, heritage, landscape and access.
- 6.4.49 As such it is considered that the Project fully accords with the requirements of good design as outlined in the NPS.

The Applicant, in its response to our representation, states that *"a number of changes were made to the layout of the Project in response to Statutory Consultation feedback...."*. This statement only serves to highlight again the issue that we (and we note various statutory consultees) raise. Namely that the "land made available" has actually been the foremost influencing factor in choosing this site and that alternatives were only seriously considered much later when the Applicant was asked to look at these, resulting in the token examination of other land that is to be found within **Doc. Ref 5.2**. There was in fact little or no *"design evolution"* in the sense expected in order to comply with **Overarching National Policy Statement for Energy (EN-1)**.

Quite simply the response provided by the Applicant underlines that this scheme has been "reverse engineered" quite contrary to EN-1 which states: **4.7.4 Given the benefits of good design in mitigating the adverse impacts of a project, Applicants should consider how good design can be applied to a project during the early stages of the project lifecycle.**

Outlier – Southeastern Block

The Applicant has chosen not to explain why it has gone out of its way to include this inaccessible small block of land when at least 50% of it is (based on its own survey) classified as BMV land.

We note the Applicant's response on the question of badgers and the claimed need to keep all reports relating to badgers confidential.

We also note that the Applicant in various documents confirms that no infrastructure will be installed closer than 30 m from any badger set (see **Design Principles Doc. 7.5**).

There is a Badger set 

Is this set identified in the confidential report? If it is, why has the Applicant not adjusted the panel footprint to the east of it and how is the Applicant proposing to manage this situation and comply with the relevant legislation and indeed its own undertaking?

South-Eastern Block (Outlier)

The Applicant's response on the question of providing a haul route and cable route in order to avoid the serious impact that will be caused by using so much of Goldwell Lane is unconvincing. We have addressed this in the submissions we have already made separately for Deadline 1 which we hope will elicit a detailed response.

For the record, Goldwell Lane is a route *through Aldington* and the measures set out in the Outline CTMP "*to minimise any impact or disruption to other road users*" is totally inadequate, because among other things it fails to recognise the physical constraints involved in using this road for public use, construction traffic and cable laying in combination.

Traffic and Access

We strongly disagree with the Applicant's assertion that there will not be cumulative effects caused by other major consented developments in the area. It is not just a question of traffic associated with those developments (and *existing* developments – like the Converter Station – which the Applicant appears to have overlooked in its assessment) but the way in which construction traffic disruption will cause delays on the main access (Station Road) which in turn will result in traffic being displaced and seeking other routes. *This is a cumulative impact.*

It is concerning to read much of what KCC have stated in the Statement of Common Ground Document (**Doc. Ref 8.3.4**). We hope the EXA will ask KCC to explain why the serious safety issues arising from this proposal appear to have been overlooked.

Not least the Applicant includes an inaccurate measurement relating to the Smeeth Crossroads ghost lane and the physical highway constraints in Goldwell Lane have not been factored in for a road that is due to take public and construction traffic during cable laying.

Hopefully the Applicant has by now (as requested by KCC) provided further clarification on items **P2** and **P3** (within **Doc Ref 8.3.4**) relating respectively to traffic generation and routing (including the Smeeth Crossroads) and what we refer to as the "minibus myth" (the idea that 75% of staff will elect to park their cars somewhere in Ashford possibly at a cost in the region of £12/day and wait to be picked up by a minibus). This aspect coupled with the idea that staff will readily share lifts demands evidence based comparable data from active rural projects (like Cleve Hill Solar) evidence that we would have expected KCC to have asked for previously in light of the claims being made by the Applicant.

If the indicated two minibuses are used, we calculate that each will need to do between three and five return trips at the beginning and end of each day throughout the 12-month period. Whether staff are being picked up from the same point or a number of different points this idea (which is really all it is) will mean a huge amount of wasted time and as such will be completely unviable for the Principal Contractor and elongate the scheme's construction phase.

The question on the use of minibuses and car sharing is a serious one because it directly impacts on the amount of traffic on the main access route – including the Smeeth Crossroads – and is therefore a major safety issue.

Additional Issues

Draft DCO

Article 4 in the draft DCO states: "*The undertaker may at any time **maintain** the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise*". (bold font our emphasis).

The word "maintain" is a defined term:

*"maintain" includes inspect, upkeep, repair, refurbish, adjust, alter, remove, **reconstruct and replace** in relation to the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement; and any derivative of "maintain" must be construed accordingly;*" (bold font our emphasis).

Bearing in mind that it is generally accepted that solar panels can expect to have a maximum useful life of not more than 25 years it is clear that future owner(s) of this development will "reconstruct and replace" the panels, and very probably the associated infrastructure (BESS, Inverters etc) over the duration of the 40 year temporary Consent. Indeed, they may wish to replace some or all of the equipment at an even earlier stage if that is found to be commercially optimal.

The caveat within the defined term which would prevent such works is if *"any materially new or materially different environmental effects to those identified in the environmental statement"* arise.

If complete or substantial reconstruction is proposed during the 40 years;

- How will the environmental effects of a proposal be judged and by whom?
- What information about its proposals will the owner have to provide?
- Which agencies will decide whether or not the caveat is triggered?
- If triggered, what process will the then owner have to go through?
- What consultation with Statutory Consultees and the public will then be required?

It is not unreasonable for the community to expect answers on these points and to understand the implications of these provisions not only for them but also for those who will live in the area over the next 40 years. If the detail, like so much else, is to be delegated to Ashford Borough Council then where is the corresponding provision for this and what certainty is there of obtaining appropriate robust safeguards for the community post grant of a DCO?

It seems only logical that the nature of environment that will be affected by reconstruction 10 or 20 years from now will be different from that which has now been assessed by the applicant.

This will be true if only because the applicant is proposing various forms of mitigation (hedge and tree planting) which will change the environment. How will removal of any of this (if necessary for reconstruction) be considered since it was not in existence when the current environmental statement was prepared?

In short, if there is to be such a wide definition for maintenance of the development then we would ask that the Applicant (or if necessary the EXa) explains, for the benefit of the community, exactly what the process will be for any proposed reconstruction and the safeguards they can expect to rely on when dealing with the next phase of disruption.

Funding Statement (REP1-012)

Section 2.2 of the Funding Statement (REP1-012) indicates that construction costs are estimated to be £150 million excluding the cost of decommissioning. It is evident from the information provided that neither EPL001 Limited, its parent company Evolution Power Limited nor its Finnish Shareholder Korkia Renewables Oy has the funds to finance the construction phase. The letter of support from Korkia states that it expects to have "access" to the funds necessary for construction and compulsory acquisition costs, including from private equity markets. The penultimate paragraph of the letter of support is very telling in that it makes absolutely clear that there is no commitment from Korkia to fund the project. In essence the project is unfunded beyond the DCO process and relies on the promise of fundraising from undisclosed sources.

The decommissioning costs have not been disclosed in the funding statement and if for whatever reason there are insufficient funds to meet the decommissioning liability, then it is unlikely that the landowners will have sufficient funds, contractual liability or the appetite to meet any outstanding commitments. In this scenario the community will be left with the blight

of “rotting infrastructure” in our beautiful countryside. It is therefore imperative that the decommissioning costs are disclosed along with the proposed mechanism by which they will be financed through project revenues. We would expect the decommissioning costs to have been estimated by a truly independent third party. From the material in the funding statement, it seems unlikely that EPL001 Ltd will have a sufficiently strong balance sheet to meet the decommissioning liability, and we would expect to see a bond put into place to meet the liability during the construction phase and early stages of generation. It is likely that with current technology the solar panels and batteries will need replacing after 20 years. At this point the decision may be taken to cease electricity generation in the face of the new investment required and it is imperative that in this scenario the project is decommissioned at this point in time rather than at the end of the 40 year project phase.

For the reasons given above we believe that the details of the decommissioning be fully disclosed. This cannot be left in the hands of the Applicant and Land owners who may be motivated by short term gain rather than the harsh reality of decommissioning which may seem along way off.