



**Application by East Yorkshire Solar Farm Limited for East Yorkshire Solar Farm
The Examining Authority's second written questions and requests for information (ExQ2)
Issued on 1 August 2024**

The following table sets out the Examining Authority's (ExA's) second round of written questions and requests for information – ExQ2.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe C of the Rule 6 letter of 23 April 2024. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number. When you are answering a question, please start your answer by quoting the unique reference number.

References in square brackets [] are to documents in the [Examination Library](#)

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact EastYorkshireSolarFarm@planninginspectorate.gov.uk and include 'East Yorkshire Solar Farm' in the subject line of your email.

Responses are due by Deadline 4 on 15 August 2024



Abbreviations used:

Art	Article	LEMP	Landscape and Ecological Management Plan
BoR	Book of Reference	LIR	Local Impact Report
CA	Compulsory Acquisition	LPA	Local planning authority
CEMP	Construction Environmental Management Plan	MW	Megawatt
CTMP	Construction Traffic Management Plan	NE	Natural England
dDCO	draft Development Consent Order	NSIP	Nationally Significant Infrastructure Project
EA	Environment Agency	PA2008	Planning Act 2008
ES	Environmental Statement	PPs	Protective Provisions
ExA	Examining Authority	PRoW	Public rights of way
ERYC	East Riding of Yorkshire Council	R	Requirement
FSF	Fixed South Facing (solar PV panels)	RR	Relevant Representation
HE	Historic England	SAT	Single Axis Tracker (solar PV panels)
HRA	Habitats Regulations Assessment	SoCG	Statement of Common Ground
HRAR	Habitats Regulations Assessment Report	SoS	Secretary of State
ISH	Issue Specific Hearing		



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ExQ1	Question to:	Question:
1. General and Cross-topic Questions		
Q1.0.1	The Applicant	ExQ1 Q1.3.6 sought further information on the sequencing of the works as a whole. The Applicant's response [REP1-081] states that the sequencing would be controlled by the Construction Environmental Management Plan (CEMP) [REP3-011] and Requirement 11 [REP3-005]. However, neither explicitly requires the approval of a sequencing or phasing programme. Please consider amending the CEMP to include such a provision.
Q1.0.2	The Applicant	Statement of Common Ground (SoCG) with the Forestry Commission [REP1-071] Please provide an update on discussions regarding access to and management of existing woodlands.
Q1.0.3	The Applicant	Applicant's Note on Scheme Efficiency [REP3-038] The Note refers to panels with an output of more than 720Wp being currently available and the Applicant's response to ExQ1.2.4 refers to panels with a range of 400-1000Wp. (a) Is the Note's assumed use of 580Wp panels too conservative leading to a greater land-take than may be necessary? Even accepting the assumptions used, the Note finds that the Scheme would take up 3.94 acres/MW output based on the methodology adopted in the Mallard Pass Solar Farm examination. Although that ratio falls within the range set out in EN3(24) paragraph 2.7.10, it is significantly higher than other NSIP solar farm projects. See, for example, the review at Appendix A of [REP7-035] of the Mallard Pass examination. It finds that recent solar farm schemes (which include both SAT and FSF panels) have ratios ranging from 1.23 to 2.9ha/MW. (b) Are there particular characteristics of the Application proposal which explain its seemingly high ratio (e.g. location, topography, site configuration, layout or panel choice)? In the methodology used to determine the ratio, the solar PV areas include buffer zones for residential properties, among other features. (c) Does the comparatively high ratio offer the opportunity to

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ExQ1	Question to:	Question:
		increase the width of the buffer zones in order to address concerns widely expressed by the local community about visual impact of the proposal and the proximity of the panels to residential areas?
2. Biodiversity (including Habitats Regulations Assessment (HRA))		
Q2.0.1	The Applicant and East Riding of Yorkshire Council (ERYC)	The Applicant's response to ExQ1 Q2.0.4 refers to ongoing correspondence with ERYC regarding finalising the management of the visibility splays, and any passing place strategies required for the Wressle Verge and Tottering Lane, Gribthorpe Local Wildlife Sites. (a) Is it expected that these discussions will result in an agreed scheme and mitigation measures before the end of the examination? (b) If so, how will the agreed scheme be secured in the draft Development Consent Order (dDCO). If not, how would the dDCO ensure that the scheme and mitigation is secured post consent?
Q2.0.2	The Applicant	<p>The Deadline 3 submission by Natural England (NE) [REP3-048] updates its position following the submission of the Applicant's updated Habitat Regulations Assessment Report (HRAR) [REP2-013] and 2023/24 winter bird surveys. The NE submission (dated 23 July 2024) identifies remaining concerns at its item numbers NE1, NE2, NE6, NE9, NE13, NE14, NE17 and NE18.</p> <p>(a) Please provide an update on each of these matters, including amended versions of the HRAR, Environmental Statement (ES) Chapter 8 Ecology and the framework Landscape and Ecological Management Plan (LEMP) as appropriate.</p> <p>(b) It is noted that the SoCG with NE has the same date as NE's [REP3-048]. The 'Under discussion' matters in the SoCG broadly correspond with the remaining concerns in [REP3-048], but also include matters carried forward from earlier submissions (for example, the use of a 150m buffer zone around the mitigation areas). Please ensure that your response to (a) above takes into account any such unresolved matters identified in the SoCG.</p>
3. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		

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ExQ1	Question to:	Question:
Q3.0.1	The Applicant	<p>Articles 20, 22 and 48 - compulsory acquisition of land and rights – extent of the powers sought over Crown land. Together with Schedule 9, these Articles operate to allow the undertaker to compulsorily acquire rights in land included in the Book of Reference (BoR) [REP3-009]. The Applicant’s summary of oral submissions at Issue Specific Hearing 1 (ISH1) on the dDCO [REP1-065] recognise that s135 of the Planning Act 2008 (PA2008) allows the compulsory acquisition (CA) of an interest in Crown land only if it is held otherwise than by or on behalf of the Crown. The Applicant’s summary also confirms that the land in question in this case (specifically plots 18/109 and 21/141) is so held. However, the entries for these plots in Parts 1, 3 and 4 of the BoR refer to ‘The King’s Most Excellent Majesty In Right Of His Crown’. To avoid any doubt over compliance with S135, please give careful consideration to amending the BoR to add the words “excluding all interests owned by or on behalf of the Crown” after “Extent, description and situation of land” in the column 2 heading for plots 18/109 and 21/141 in Parts 1, 3 and 4 of the BoR. This request is made notwithstanding the provisions of the Gate Burton made DCO. The Applicant is invited to review the made DCOs for the Sunnica and Hornsea 4 and Sheringham Shoal and Dudgeon Extensions which are consistent with the approach set out above.</p>
Q3.0.2	The Applicant	<p>Plots 5/17, 5/18 and 5/19 (Parkin, Laverack, Saunders. It was established at Compulsory Acquisition Hearing 1 (see [REP3-034]) that progress on negotiations on these plots was contingent on agreement with NE regarding the proposals for mitigation at Areas 1g and 1h. Please provide an update on negotiations having regard to your response to Q2.0.2 above.</p>
Q3.0.3	The Applicant	<p>The Applicant’s response to submissions received at Deadline 2 [REP3-033] includes information on the funding of the proposal (in response to a submission from Sir David Davis MP).</p> <p>(a) Paragraph 2.3.3 of the funding statement [APP-022] states that <i>“the letter of support at Appendix 1 confirms that PNE can fund the total of the construction and compulsory acquisition costs for the Scheme.”</i> However, section 4 of the letter states <i>“This letter of support does not require us (PNE) to fund the Project, nor does it represent or create any legal obligations and none shall be implied”</i>. Please clarify the apparent contradiction between these statements and confirm the source of funding for the project.</p>

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ExQ1	Question to:	Question:
		<p>(b) [REP3-033] and [REP1-081] explain that the Applicant contracted with Eclipse Power Networks Limited for the purposes of applying for the grid connection and submitted a joint application. This resulted in the offer of a Bilateral Embedded Generation Agreement to the Applicant and Eclipse. Although the role of Eclipse as an Independent Distribution Network Operator is explained, there is little information on the role of Eclipse in the project. What control would Eclipse have over the timing, design, and implementation of the grid connection?</p>
<p>4. Draft Development Consent Order (DCO)</p>		
<p>4.0 Articles</p>		
<p>Q4.0.1</p>	<p>The Applicant and the EA</p>	<p>Article 6 Application and modification of statutory provisions.</p> <p>a) The Applicant ExQ1 Q5.0.3(a) sought further information on the effects of the disapplications sought. The Applicant’s response [REP1-081] states <i>“that they address matters whose merits and acceptability can, and will, already have been sufficiently considered and resolved if the Order is made...”</i> However, in order to recommend that the Order is made the ExQ needs sufficient information to be able to consider whether the disapplications are acceptable, having regard to any relevant Requirements and Protective Provisions (PPs). Please provide a substantive response to Q5.0.3(a).</p> <p>b) The Applicant and the Environment Agency (EA) The SoCG with the EA [REP3-021] advises that the disapplication of the Environmental Permitting Regulations with regard to flood risk is under discussion. The ExA understands that resolution of the matter depends on agreeing appropriate PPs. Is that correct? Please provide an update on the discussions and whether agreement is likely to be reached before the end of the examination.</p> <p>c) The Applicant Please provide an update on progress with the other relevant bodies in relation to legislative requirements proposed to be disapplied and included in the dDCO.</p>

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ExQ1	Question to:	Question:
Q4.0.2	The Applicant	<p>Articles 34 and 35 Transfer of the Benefit of the Order</p> <p>The Applicant's summary of oral submissions made at ISH1 on the dDCO [REP1-065] confirms at item J that the definition of undertaker includes those to whom the benefit is transferred and that a guarantee must be approved for funding before the exercise of CA powers. However, what would be the situation if the guarantee is approved by the SoS for the applicant and the benefit is transferred after the guarantee is given? How can the ExA be certain that the funding would be secured in those circumstances where the person who gave the guarantee / security is no longer the undertaker? Please consider amending the dDCO by requiring Secretary of State (SoS) consent to transfer the benefit so that they can ensure at that point that any security already approved would continue to apply or have the power to request a new security or guarantee before approving consent to transfer.</p>
Q4.0.3	The Applicant	<p>Article 49 Crown Rights</p> <p>Please provide an update on discussions with the Crown authority regarding the requirement for consent under s135(1) of the PA2008.</p>
4.1	Schedule 2 - Requirements	
Q4.1.1	The Applicant	<p>Requirement 3 [REP3-005]. The first two clauses of this Requirement are numbered (1) and the third and fourth (2) and (3) respectively. Please correct the numbering.</p>
Q4.1.2	The Applicant	<p>Requirement 18 [REP3-005]. The Applicant's response to ExQ1 Q5.1.4(b) [REP1-081] refers to Options for Lease with the landowners of the solar PV areas which include decommissioning bond provisions.</p> <p>(a) What assurance is there that the schedule of condition in the Lease of Condition matches the dDCO decommissioning requirements.</p> <p>(b) If the Applicant exercises CA powers under the dDCO it, presumably, would not need to enter into a lease with the landowners and therefore the decommissioning bond provisions would not apply.</p>

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ExQ1	Question to:	Question:
		Please comment on the resulting lack of security for the implementation of decommissioning requirements.
5. Human Health		
Q5.0.1	North Yorkshire Council (NYC)	The Applicant's response to the NYC Local Impact Report (LIR) [REP3-032] includes replies to human health related concerns. Do these replies address your concerns? If not, please set out your remaining concerns.
Q5.0.2	The Applicant	The response to ExQ1 Q6.0.6 [REP1-081] states that the worst-case scenario would be 65 construction workers registering with each Bubwith Surgery GP. It then goes on to state that this would result in the number of patients with each GP rising from 1800 to 1825. (a) Is there a mathematical or typographic error in these figures. If not, please provide a fuller explanation. If the number would rise to 1865 patients per GP, please comment on the resulting impact on healthcare services.
6. Historic Environment		
Q6.0.1	The Applicant and Historic England (HE)	SoCG with HE [REP3-023]. The status of item refs 3.2.8, 3.2.9 and 3.2.10 is 'Under discussion,' although the commentary suggests that both parties agree the positions. Please clarify the position regarding these matters.
7. Landscape and Visual		
Q7.0.1	The Applicant and ERYC	Further consultation on the effect of the proposal on specific Public Rights of Way (PRoWs) and the potential for additional mitigation was discussed at item 2a of the ISH2 on environmental matters [REP3-035]. Please provide an update on whether such discussion has taken place and whether any consequential amendments will be made to the LEMP.

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ExQ1	Question to:	Question:
Q7.0.2	NYC	<p>The concerns expressed in NYC’s LIR regarding the protection of existing trees and tree loss were discussed at item 2a of the ISH2 on environmental matters [REP3-035]. The LEMP has been updated at Deadline 3 (in particular section 8) [REP3-016]. Does this address your concerns? If not, please set out your outstanding concerns.</p>
Q7.0.3	NYC	<p>The Applicant responded in its Deadline 2 submission [REP2-020] to the Council’s concerns regarding:</p> <ul style="list-style-type: none"> • the absence of an assessed viewpoint on New Road/Wren Hall Lane, the potential loss of vegetation and that the worst-case scenario had not been assessed (in response to ExQ1 Q9.0.1). • the methodology for the assessment of tranquillity (in response to ExQ1 Q9.0.2). • the provision of Green Infrastructure (in response to ExQ1 Q9.0.3). <p>Do these responses, together with the updated LEMP [REP3-035] address your concerns? If not, please set out your outstanding concerns.</p>
Q7.0.4	The Applicant	<p>ExQ1 Q9.0.5 sought further information on how the concerns of neighbouring occupiers (expressed in pre-application consultation and in a number of Relevant Representations (RRs) had been taken into account in the visual assessment. The response [REP1-081] refers to the process of assessment but says little about how local concerns may have informed the scheme. The Accompanied Site Inspection included visits to a number of representative residential properties where occupiers pointed out the proximity of the solar PV panels. Please give further consideration to the effect of the proposal on views from residential properties. In doing so, please have regard to your response to Q1.0.3 above</p>
Q7.0.5	The Applicant	<p>ExQ1 Q9.0.19 sought further information on the cumulative foreshortening / enclosing effect of planting and fencing on extensive views. The response [REP1-081] refers to “<i>a degree of foreshortening of the view for a small number of locations</i>”. However, reference to the LEMP Masterplan [REP3-017] and ES Figure 2-2 PRoWs [APP-137] suggest that parts of FOGGF13, FOGGF05, SPALF14, SPALF15, SPALB08, EASTB17, BUBWF10, WRSF06, WRESF08, WRESF09, WRESF07 would have solar arrays on both sides. Please comment further on the</p>

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ExQ1	Question to:	Question:
		cumulative impact of this change and whether there is potential to amend the layout and / or planting proposals in these locations and reduce any foreshortening / enclosing effects.
Q7.0.6	The Applicant	ExQ1 Q9.0.12(b) sought further information on the effect of the proposal on landscape character areas LCA5B and LCA7B. The response [REP1-081] states that “ <i>the Scheme within LCA7B covers less geographical area than within LCA5B and is concentrated over a smaller area</i> ”. This finding seems difficult to reconcile with a review of ES Figure 10.3 [APP-158]. Please comment further.
8. Noise and Vibration		
Q8.0.1	The Applicant	ExQ1 Q10.0.16 sought assurance that the scheme layout would have sufficient flexibility in to ensure that no cable laying work would take place within 15m of receptors R16, R26 and R42. The response [REP1-081] quotes from the CEMP that “ <i>Works undertaken in the Grid Connection Corridor and the Interconnecting Cable Corridor would be undertaken at least 15 m from a sensitive receptor where practicable.</i> ” (My emphasis). What additional mitigation measures would be in place should it prove impracticable to achieve the 15m distance?
Q8.0.2	ERYC	The Applicant’s response to ERYC LIR [REP3-032] includes replies to noise related concerns. Do these replies address your concerns? If not, please set out your remaining concerns.
9. Public Rights of Way		
Q9.0.1	The Applicant	ExQ1 Q11.1.3 sought clarification of the proposals for the maintenance and reinstatement of the surfacing of PRoWs, and the management of any adjoining vegetation. The response [REP1-081] refers to highways conditions surveys and commitments within the Construction Traffic Management Plan (CTMP). Highways condition surveys would not, of themselves, provide an enforceable commitment to maintenance and reinstatement proposals and nor is it obvious where such commitment appears in the CTMP [REP1-054]. Please review the CTMP and consider clarifying the

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ExQ1	Question to:	Question:
		proposals for the maintenance and reinstatement of the surfacing of PRowS and the management of any adjoining vegetation.
Q9.0.2	The Applicant and ERYC	The Applicant's summary of discussions at ISH2 item f [REP3-035] refers to further engagement on the effect of the proposal on specific PRowS and the level of detail in the Framework PRow Management Plan. Please provide an update on any such engagement.
10. Major Accidents and Disasters		
Q10.0.1	The Applicant	[REP3-054] includes, among other things, reference to a BRE study entitled 'Fire and Solar PV Systems – Investigations and Evidence'. Please comment on the findings of this study and whether it has relevance for the assessment of the fire risk of the proposal.