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London  
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12 July 2024

Dear Ms McGill,

## **PLANNING ACT 2008**

### **APPLICATION FOR DEVELOPMENT CONSENT FOR THE GATE BURTON ENERGY PARK**

#### **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 4 April 2024. The ExA consisted of one examining inspector, Kenneth Stone. The ExA conducted an examination (“the Examination”) into the application submitted on 27 January 2023 (“the Application”) by Gate Burton Energy Park Ltd (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Gate Burton Energy Park and associated development (“the Proposed Development”). The Application was accepted for Examination on 22 February 2023. The Examination began on 4 July 2023 and closed on 4 January 2024. The Secretary of State received the Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”) on 4 April 2024.
- 1.2. On 29 April 2024 the Secretary of State issued a consultation letter to the Applicant, Emma and Nicholas Hill, Shaun Kimberley, EDF Energy (Thermal Generation) Limited, Network Rail Infrastructure Limited, Trent Valley Internal Drainage Board, Uniper UK Limited and Natural England seeking information on several matters. The consultation closed at 23:59 on 13 May 2024 and responses were published on 21 May 2024. As the statutory deadline fell within the pre-General Election period, immediately after the General Election the Secretary of State extended the statutory deadline to allow this decision to be made. A Written Ministerial Statement to announce this extension will be made once Parliament returns.
- 1.3. The Proposed Development comprises the construction, operation, maintenance, and decommissioning of ground mounted solar photovoltaic panel arrays, on-site battery storage, and associated infrastructure, which includes, but is not limited to, access provision and an underground 400 kilovolt (kV) electrical connection of approximately 7.5 kilometre (km) to the Cottam National Grid Substation [ER 1.3.5]. 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.

- 1.4. The Order, as applied for, would grant development consent for:
- Work No. 1- ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts (MW);
  - Work No. 2- a Battery Energy Storage System (“BESS”) compound;
  - Work No. 3- development of an on-site substation and associated works;
  - Work No. 4- works to lay high voltage electrical cables, access and construction compounds for the electrical cables;
  - Work No. 5- works including electrical cables; fencing, gates, boundary treatment and other means of enclosure; works for provision of security and monitoring measures; landscaping and biodiversity mitigation and enhancement measures; improvement, maintenance and use of existing private tracks; laying down of internal access tracks; laying down of temporary footpath diversions; earthworks; drainage infrastructure; construction and decommissioning compounds; works to divert and underground existing electrical overhead lines;
  - Work No. 6- construction and decommissioning compounds;
  - Work No. 7- office, warehouse and plant storage building;
  - Work No. 8- works to facilitate access to Work Nos. 1 to 9; and
  - Work No. 9- areas of habitat management [ER 1.3.6].
- 1.5. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, as set out in the draft Order submitted with the Application.
- 1.6. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website<sup>1</sup> is a copy of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 3-7 of the ExA’s 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’s Report under the following broad headings:
- Need, Alternatives and Generating Capacity;
  - Air Quality;
  - Biodiversity, Ecology and the Natural Environment;
  - Climate Change;
  - Historic Environment;
  - Human Health and Wellbeing;
  - Landscape and Visual;
  - Major Accidents and Disasters;
  - Noise and Vibration;

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<sup>1</sup> <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010131>

- Socio-Economic and Land Use (including agricultural land and best and most versatile land);
- Traffic and Transport;
- Water Environment (including flooding); and
- Other Matters.

2.2. The ExA recommended that the case for development had been made, development consent should be granted and the Secretary of State should make the Order in the form attached at Appendix C to the ExA's Report ("rDCO") [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 his 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, all of which are dealt with as appropriate in the decision letter below and published on the Planning Inspectorate's National Infrastructure Planning project webpage. Two hundred and ninety-one RRs were made during the Examination in respect of the Application (with a further forty-one for 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 the public benefits associated with the Proposed Development outweigh the harm 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 is for the construction of a generating station located in England which does not generate electricity from wind, is not an offshore generating station, and has a capacity of more than 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 9 constitute associated development [ER 1.3.7].

- 4.2. At Issue Specific Hearing (“ISH”) 1 the ExA considered the scope of the Proposed Development and whether the BESS constituted associated development. 7000 Acres [REP-061] questioned whether the BESS was legitimately associated development and were concerned at its uncapped size and purpose, noting that, given the intermittent nature of solar generation, the purpose of the BESS was to provide additional revenue through the importation and export of energy to the grid, at odds with guidance published by the Department for Communities and Local Government, ‘Planning Act 2008: Guidance on associated development applications for infrastructure projects’ (“the Guidance”). The Applicant noted that while the overall capacity in terms of electrical output of the BESS is not capped, the Outline Design Plans (“ODPs”) place a physical envelope within which the development must be contained [REP-036]. The Applicant further noted that the purpose of the BESS is two-fold: firstly, to provide storage facility for the solar panels when there is high output but demand is low and secondly to import electricity from the grid at times when grid capacity is high but demand is low [REP-036]. The ExA considered that, notwithstanding the lack of a detailed financial breakdown, it was not unreasonable to conclude that providing these grid balancing services through the BESS would have a commercial benefit but acknowledged that the Guidance advises development should not be treated as associated development if its only purpose is as a source of additional revenue [ER 1.3.17]. The ExA was satisfied that co-location of a BESS with a solar generating station is a reasonable and appropriate function and in line with 2024 National Policy Statement (“NPS”) EN-3 [ER 1.3.15]. The ExA concluded, given the reasonable and legitimate benefit associated with the provision of storage, Government support for co-location and that the BESS has not been proposed only as a source of additional revenue, that the BESS is appropriately included as associated development [ER 1.3.17]. The Secretary of State agrees with the ExA that the BESS 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, the BESS will help deliver a secure and reliable energy supply.
- 4.3. 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 force for this Application, the ExA concluded that the Application falls to be determined under s105 of the 2008 Act. The Secretary of State agrees.
- 4.4. 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 2.2.7].
- 4.5. 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.

- 4.6. 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 consideration to the Proposed Development as it sets out overarching energy policy [ER 2.3.10]. 2011 NPS EN-1 notes that the generation of electricity from renewable sources other than wind, biomass or waste, is not within scope but, 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 2.3.7]. The Secretary of State agrees.
- 4.7. 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 Longfield Solar Farm, Cleve Hill Solar Park and Little Crow Solar Park [ER 2.3.16]. The Secretary of State agrees.
- 4.8. 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 the new substation, Work No.3 and grid connection cables, Work No.4 [ER 2.3.18]. The Secretary of State agrees that these associated development elements would come under the scope of 2011 NPS EN-5.
- 4.9. Draft NPSs were published on 6 September 2021 and 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. 2024 NPS EN-1 brings solar energy generation within scope of the energy NPSs and makes it clear that there is an urgent need for new nationally significant electricity infrastructure projects in order to achieve energy security and carbon reduction objectives in the UK. 2024 NPS EN-3 explicitly covers solar photovoltaic generation above 50MW and sets out detailed policy considerations [ER 2.3.32]. 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 2.3.33]. The ExA considered 2024 NPS EN-1, 2024 NPS EN-3 and 2024 NPS EN-5 to be important and relevant matters, notwithstanding the transitional arrangements which means they do not have effect for this Application, and affords them considerable weight as solar energy proposals are now clearly within their remit, noting that if any conflict arises the 2024 NPSs are afforded more weight than the 2011 NPSs as they provide the latest settled Government policy [ER 2.3.41]. The Secretary of State considers 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, but does not consider that there is anything contained within the 2024 NPSs that would lead him to reach a different decision on the Application than has been reached by relying on the 2011 NPSs.
- 4.11. The ExA has also had regard to the latest National Planning Policy Framework ("NPPF") from December 2023 and the accompanying Planning Practise Guidance ("PPG") as important and relevant matters in relation to where they raise points in respect of solar development and its impacts [ER 2.4.4]. The ExA also refers to the Written Ministerial

Statement of the former Secretary of State for Communities and Local Government dated 25 March 2015 (“the 2015 WMS”) which recognises the importance of solar as part of the UK’s energy mix but acknowledges local communities concerns around protection of Best and Most Versatile (“BMV”) land in relation to solar farms, advising developers that including this land would need to be justified by the most compelling evidence [ER 2.4.10]. The ExA acknowledges that the 2015 WMS is of some age and is directed towards applications under the Town and Country Planning Act 1990 (“the TCPA 1990”) but it is still extant and must be seen within the existing policy context [ER 2.4.13]. The ExA concluded that it was an important and relevant consideration in the determination of the Application [ER 2.4.16].

4.12. The Secretary of State has had regard to the NPSs, NPPF, PPG, the 2015 and 2024 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.

4.13. 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:

- Air Quality (Neutral weight) [ER 3.3 et seq.];
- Biodiversity, Ecology and the Natural Environment (Moderate positive weight for biodiversity net gain, neutral weight in respect of ecology and the natural environment) [ER 3.4 et seq.];
- Major Accidents and Disasters (Neutral weight) [ER 3.9 et seq.];
- Noise and Vibration (Neutral weight) [ER 3.10 et seq.];
- Traffic and Transport (Neutral weight) ER 3.12 et seq.];
- Water Environment (including flooding) (Neutral weight) [ER 3.13 et seq.]; and
- Other Matters (Neutral weight) [ER 3.14 et seq.].

4.14. 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:

- Need, Alternatives and Generating Capacity;
- Climate Change;
- Historic Environment;
- Human Health and Wellbeing;
- Landscape and Visual; and
- Socio-Economic and Land Use (including agricultural land and BMV land).

#### Need, Alternatives and Generating Capacity

4.15. 2011 NPS EN-1 sets out a case for the need for new energy infrastructure to be consented and, notwithstanding the exclusion of solar from its scope, makes clear that applications for development consent for large-scale infrastructure projects of more than 50MW capacity should be assessed on the presumption that there is a need for those types of infrastructure [ER 3.2.5].

4.16. 2024 NPS EN-1 brings solar into scope and states that the Secretary of State should assess all applications for development consent for the types of infrastructure covered by this NPS on the basis that the Government has demonstrated there is an urgent need for them which should be given substantial weight [ER 3.2.16]. 2024 NPS EN-3 notes that solar has an

important role in delivering the Government's goals for greater energy independence [ER 3.2.25].

- 4.17. 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 proposals will be supported where the direct, indirect, individual and cumulative impacts are, or will be made, acceptable [ER 3.2.30]. For solar based proposals, caveats against development include clear and demonstrable significant harm, the proposal being located on BMV land and not meeting the requirements of further policy tests or the land being allocated for another purpose in the development plan [ER 3.2.30]. 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 environment and high-grade agricultural land, do not result in unacceptable landscape and visual impacts and will not result in unacceptable cumulative impacts [ER 3.2.32]. Policy ST51 of the BDC Draft Local Plan 2020-2038 makes provision for development that generates, shares, transmits and/or stores zero carbon and/or low carbon renewable energy outside of the identified Area of Best Fit provided it is demonstrated that there is an operational and/or economic need for the development in that location and the resolution of all relevant site specific and cumulative impacts that the scheme could have on the area [ER 3.2.33].
- 4.18. The Applicant's need case as submitted in the Environmental Statement ("ES") and its Statement of Need [APP-004] predated the designation of the 2024 NPSs. The Applicant, and other parties, were given the opportunity to comment on the November 2023 draft NPSs during the Examination and the Applicant does so in the cover letter to deadline 6 submissions [REP6-001] and the final Planning Design and Access Statement [REP6-004 and REP6-006]. The Applicant's closing submission on outstanding matters [REP7-001] references the Committee on Climate Change's Progress Report to Parliament and notes the lack of urgency in the delivery of decarbonisation in the UK and that the UK should stay firm on its existing commitments and move to delivery [ER 3.2.37].
- 4.19. The Applicant's need case includes that the development, in the 2020s, of large scale ground mount solar in the UK is one measure to reduce the UK's dependency on carbon-intensive fuels, support the delivery of the UK's international climate change commitments for 2030, move the country towards a carbon-free electricity system by 2035, and support achieving net zero in the UK by 2050 [APP-004].
- 4.20. The Applicant refers to dNPS EN-1, EN-3 and EN-5 (now designated 2024 NPSs) which provide further support of the critical role to be taken by large scale ground mount solar, paragraph 3.1.1 of dNPS EN-1 states "*Government sees a need for significant amounts of new large-scale energy infrastructure to meet its energy objectives and... considers that the need for such infrastructure is urgent*" [ER 3.2.41]. The Applicant also refers to large scale ground mounted solar as constituting CNP infrastructure which should be progressed as quickly as possible [ER 3.2.42]. The Applicant argues that if the Proposed Development had been accepted for examination after the designation of the 2024 NPSs, it would be a CNP and it would be likely that the need case would outweigh any residual effects, except those identified as "*exceptional*" [ER 3.2.43]. The Applicant's view is that the residual effects of the Proposed Development are very limited landscape and visual effects which cannot reasonably be considered "*exceptional*" [ER 3.2.43].

- 4.21. In terms of alternatives, the Applicant set out a four-stage approach to site selection in ES Chapter 3 (Alternatives and Design Evolution) [APP-012]. Stage 1 included the identification of an 8km area of search associated with the fixed point of connection, stage 2 included applying exclusionary and discretionary planning and environmental criteria to discount land within the area of search, stage 3 included applying key operational inclusionary criteria such as site size, land assembly, site topography, access requirements and availability of brownfield land to identify land suitable for solar development which was then narrowed in stage 4 by a desktop assessment and evaluation by planning and environmental specialists [APP-012 3.3.6]. The ExA considered that the Gate Burton site met all criteria and avoided those areas likely to lead to a policy requirement to consider whether alternative sites would be preferable [ER 3.2.45].
- 4.22. The route of the grid connection itself has also been investigated fully [APP-012 3.5] and opportunities to combine the Grid Connection Corridor (“GCC”) with Cottam, West Burton and Tillbridge solar schemes have been explored [ER 3.2.45]. As a result, a shared GCC area was identified, comprising an area within which Gate Burton Energy Park will locate its connection to Cottam sub-station and Island Green Power will locate its connection to Cottam sub-station and in part its connection to West Burton [APP-012 3.5.8].
- 4.23. The Applicant identified that the Proposed Development had no upper limit in terms of electricity generation but a minimum of 50MW which ensures it is an NSIP scheme: the indicative site layout plan [APP-033] results in an installed capacity of 531MW. Minimum yields for the Proposed Development are assumed to be 922 kilowatt hours (kWh) per year per kilowatt peak with the panel output assumed to degrade by 2% in the first year and 0.45% per year thereafter [ER 3.2.46]. Requirement 19 of the dDCO sets decommissioning as no later than 60 years following the date of final commissioning and, for an installation rated at 531MW operating for 60 years, the Applicant estimates a lifetime generation of 26.986 terawatt hours (TWh) [ER 3.2.46]. The Proposed Development also includes a battery storage facility with an assumed capacity of 500 megawatt hours (MWh) [ER 3.2.46].

#### *Views of IPs*

- 4.24. WLDC confirmed that it recognises the Proposed Development would help meet a national need for electricity generating capacity and is in line with national policy, however it maintains concerns with regard to the loss of agricultural land, significant adverse landscape and visual effects (including on Areas of Great Landscape Value) and effects on the economy and communities [ER 3.2.47]. WLDC stated that the Proposed Development does not comply with CLLP policies S14, S43, S54 and S62 and concluded that the disbenefits clearly outweigh the benefits in accordance with s105 of the 2008 Act [REP2-056]. LCC noted that the Proposed Development would produce clean renewable energy and deliver significant biodiversity net gain benefits [REP-043]. However, LCC states that these positive impacts are not outweighed by the negative impacts, some of which are significant, that arise both on its own and in combination with other projects, specifically noting negative impacts on the landscape character and appearance of the area [REP2-051]. NCC did not address need or principle of the development in its LIR but in the joint Statement of Common Ground (“SoCG”) with NCC, BDC and the Applicant [REP6-014] it is agreed that NCC supports the principle of renewable energy and there are no areas of disagreement regarding site selection and the Proposed Development’s design. BDC noted that its BDCCS policies do not mention solar farm development but acknowledged that Government policy supports such development in appropriate locations [REP-038].



- 4.25. Many RRs raised concerns with efficiency, yield and electricity generation given the low solar radiance in England and IPs stated that solar panels only produce around 10% of installed capacity [ER 3.2.51]. 7000 Acres engaged extensively during the Examination and raised concerns that policy does not directly mention large scale solar farms of this scale and that the Applicant had not adequately considered reasonable alternatives [RR-001]. In particular, 7000 Acres submitted that the Applicant did not properly consider the alternative national use of rooftop solar provision, its use on existing industrial warehouse and housing developments and other locations such as car parks and motorways [ER 3.2.53].
- 4.26. During the Examination, the ExA asked questions and held hearings regarding need, policy support and the electricity generation that would arise from the Proposed Development. The ExA questioned the Applicant's calculations of energy generation, the approach to site selection, the use of alternative sites, use of brownfield and deployment of solar panels in other scenarios than large scale solar farms [ER 3.2.57].

#### *The ExA's Conclusion on the Need Case*

- 4.27. The ExA concluded on the need case for the Proposed Development at ER 3.2.61 – 3.2.74. The ExA concluded that there was a recognised need by all parties in the Examination for the decarbonisation of energy generation to meet the Government's objective of net zero by 2050, however, there were differing views on the extent to which the Proposed Development would contribute to that objective and the balance of benefits and disbenefits [ER 3.2.61].
- 4.28. 7000 Acres submitted that, while Government policy does support solar, the policy is not so explicit as to fully support solar deployment of the size and scale of the Proposed Development, noting dNPS EN-3 (now 2024 NPS EN-3) refers to a typical 50MW solar farm consisting of 100,000 to 150,000 panels and covering between 125 to 200 acres [ER 3.2.66]. The ExA noted that 2024 NPS EN-3 states that this will vary significantly depending on the site [ER 3.2.66].
- 4.29. The ExA concluded that there is an urgent need for renewable energy generating capacity, that solar can make an important contribution to that need as part of a multi-technology generation mix and that a general need for the Proposed Development is made out [ER 3.2.74].

#### *The ExA's Conclusion on Alternatives*

- 4.30. The ExA concluded on alternatives at ER 3.2.75 - 3.2.87. The ExA was satisfied that choosing a starting point accessible to the grid connection point at Cottam substation is in line with 2024 NPS EN-3 and not an unreasonable approach [ER 3.2.77].
- 4.31. WLDC raised concerns that the full methodology and assessment of inclusive and exclusionary processes were not documented [ER 3.2.84]. The ExA noted these concerns but was satisfied the methodology in the ES was sufficient to provide a proportionate and reasonable consideration of the sites, further noting that no other sites were readily identified by the Applicant or other IPs which were in close proximity to a grid connection and in a consolidated location which met the physical and policy constraints [ER 3.2.85]. The ExA was also satisfied that an appropriate assessment of alternatives for the GCC [APP-115] had been undertaken [ER 3.2.86].

4.32. The ExA concluded that the Applicant's consideration of alternatives in the ES was proportionate, appropriate and reasonable and in line with the advice in 2011 and 2024 NPS EN-1 [ER 3.2.87].

#### *The ExA's Conclusion on Generating Capacity*

4.33. The ExA concluded on electricity generated at ER 3.2.88 – 3.2.94. The Applicant demonstrated in the ODPs and indicative site layout that the Proposed Development would have a likely estimated generating capacity of 531MW and an overall lifetime generation of 26.98 TWh [ER 3.2.88]. The ExA noted 2024 NPS EN-3 which suggests a solar farm generally requires between 2 and 4 acres for each MW of output and noted that the Proposed Development is at the more efficient end of that range, with approximately 2.2 acres per MW based on an area of 1,176 acres for 531MW of installed capacity [ER 3.2.92].

4.34. The ExA concluded that the general proposition from IPs that yields in the UK are around 10% is not incorrect but found no inherent issue with the Applicant's figures and accepted these were a reasonable indication of the likely electricity output [ER 3.2.90].

4.35. 7000 Acres calculated that even the full provision of the 90GW target of solar only delivers up to 10% of total energy demand and that a solar scheme such as this only contributes 0.055% of the UK's annual demand [ER 3.2.93]. The ExA notes this ignores the contribution that solar would make to decarbonisation and notes that when similar figures were referenced in the Little Crow Solar Project the Secretary of State concluded it is appropriate to accord substantial positive weight due to the contribution made to decarbonisation of the UK's energy production while for Longfield Solar Project significant positive weight was attributed by the Secretary of State to meeting the need for additional low carbon generation [ER 3.2.93].

4.36. The ExA further notes that the Applicant's figures did not include factors related to the BESS which would assist with intermittency, grid balancing and potentially add to the level of electricity to be fed into the grid, concluding it would be an additional benefit that supports the factors considered above [ER 3.2.94].

#### *The ExA's Conclusion on Need, Alternatives and Generating Capacity*

4.37. The ExA concluded that the Proposed Development would make a material contribution to the generation of low carbon energy, alternatives had been suitably considered and the Proposed Development was in accordance with 2011 NPS EN-1, 2024 NPS EN-1 and 2024 NPS EN-3 [ER 3.2.95]. The ExA ascribed great positive weight in the planning balance to the demonstrated need, likely deployed generating capacity and likely electricity generated [ER 3.2.95].

#### *The Secretary of State's Conclusion on Need, Alternatives and Generating Capacity*

4.38. 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, alternatives and generating capacity, including climate change, below in paragraph 4.61.

#### Climate Change

4.39. 2011 NPS EN-1 explains that the Government is committed to meeting the legally binding targets to cut carbon emissions by 100% from 1990 levels by 2050 [ER 3.5.4]. 2011 NPS

EN-1 highlights the need for all types of energy infrastructure covered by the NPS for energy security and to reduce GHG emissions drastically [ER 3.5.6]. 2024 NPS EN-1 states that solar and wind are expected to be the main form of electricity generation to meet the Government's climate change commitments [ER 3.5.7]. 2024 NPS EN-3 recognises solar is a key part of the Government's strategy for low-cost decarbonisation of the energy sector [ER 3.5.8].

- 4.40. CLLP policies S11, S14 and S16 seek to reduce embodied carbon, support renewable energy where adverse effects can be made acceptable and support wider energy infrastructure necessary for the transition to net zero [ER 3.5.12]. Policy SO4 of the CLLP relates to energy and climate which encourages the efficient use of natural resources and promotes waste as a resource to be reused [ER 3.5.11]. BDCCS policies DM4 and DM10 provide clear support for low carbon energy infrastructure where they meet policy criteria regarding the natural environment, character and distinctiveness of the area and agricultural land [ER 3.5.9].
- 4.41. The Applicant's case on climate change is set out in ES Chapter 6 (Climate Change) and, in line with the EIA Regulations, consideration has been given to lifecycle GHG impact assessment, climate change resilience assessment and in-combination climate change impact assessment [APP-015].
- 4.42. The Applicant states the largest single source of GHG emissions will result from the manufacture and transport of solar photovoltaic ("PV") panels and the BESS, noting the manufacturer has not been confirmed and a conservative estimate is to assume transport from China, as this will increase the embodied carbon compared to panels from Europe [APP-015 6.4.3]. The Applicant assessed carbon emissions from the manufacture and transportation of components, materials and waste, use of plant and machinery, consumption of water, worker travel and land use change during construction, operation and maintenance and decommissioning [APP-015].
- 4.43. The Applicant lays out embedded mitigation measures, included within the framework Construction Environmental Management Plan ("fCEMP"), such as increasing recyclability, reducing pollution by adopting the Considerate Constructors Scheme, reducing the creation of waste, use of materials with lower embodied carbon, encouraging lower carbon modes of transports, liaising with construction personnel regarding implementing staff minibuses and car sharing, and conducting regular planned maintenance to optimise efficiency [APP-015 6.9.1].
- 4.44. During construction, the manufacture of PV panels is estimated to emit 257,849 tonnes (t) CO<sub>2</sub> and the manufacture of BESS to emit 77,500 tCO<sub>2</sub> [ER 3.5.15]. The Applicant states the total emissions from the construction phase of the Proposed Development are 408,446 tCO<sub>2</sub> [ER 3.5.15]. Total operational emissions over the design life of the Proposed Development, including replacement of solar panels when needed, are calculated as 454,350 tCO<sub>2</sub> [ER 3.5.16]. The Applicant notes a very high degree of uncertainty for decommissioning but gives a highly conservative estimate of 11,324 tCO<sub>2</sub> [ER 3.5.17]. The Applicant calculates 899,933 tCO<sub>2</sub> as the lifetime emissions from the construction, operation and decommissioning of the Proposed Development [ER 3.5.18].
- 4.45. The Applicant provides a total carbon intensity value of 33.35 gCO<sub>2</sub>e/kWh, noting the current UK grid carbon intensity is 212 gCO<sub>2</sub>e/kWh [ER 3.5.19]. The Applicant further notes that the UK grid carbon intensity only takes into account operational emissions and therefore

calculates a carbon intensity for the Proposed Development, based on only operational emissions, of 15.86 gCO<sub>2</sub>e/kWh [ER 3.5.20].

- 4.46. The Applicant further compares the carbon intensity for the Proposed Development against that for a gas fired Combined Cycle Gas Turbine (“CCGT”) generating facility of 354 gCO<sub>2</sub>e/kWh, noting the Proposed Development has an operational carbon intensity of 95% lower, indicating an overall lifetime carbon reduction, relative to this counterfactual, of over 9 million tonnes CO<sub>2</sub>e [APP-015 6.10.26 – 6.10.33]. The Applicant notes that this assessment does not include the BESS and that, when used for grid balancing purposes, this could deliver an additional saving of 3.3 million tonnes CO<sub>2</sub>e over its operational lifetime [ER 3.5.23].
- 4.47. The Applicant, in line with IEMA guidance, uses the UK’s fourth, fifth and sixth carbon budgets to contextualise these emissions, concluding that the scheme would contribute 0.02%, 0.002% and 0.003% to the overall budgets for these years respectively [APP-015 6-24]. The Applicant also presents the contribution to the sectoral carbon budgets in APP-015 Table 6-25.
- 4.48. The Applicant concluded that the overall GHG impact of the Proposed Development is beneficial and significant as the operational carbon intensity remains below that of a CCGT facility, and it will play a part in supporting the trajectory towards net zero [APP-015 6.10.51].
- 4.49. In terms of cumulative effects, the Applicant considered it is not possible to define a study area nor undertake a cumulative effects assessment as the identified receptor is the global climate, citing the IEMA guidance that effects of GHG emissions from specific cumulative projects should not be assessed as there is no basis for selection of projects [ER 3.5.28].

#### *Views of IPs*

- 4.50. WLDC identified that, whilst noting the positive benefits, some 453,753 tCO<sub>2</sub> will be emitted during the operational lifetime from the supply of replacement components, which alone contributes to 50% of the embodied carbon of the Proposed Development [ER 3.5.29]. In their SoCG, WLDC maintains a concern that decommissioning emissions could be much higher, noting the high degree of uncertainty acknowledged by the Applicant [REP6-012]. LCC [REP6-022], NCC and BDC [REP-013] confirm in their SoCGs that there are no areas of disagreement outstanding in relation to climate change impacts and GHG emissions.
- 4.51. IPs raised concerns regarding the amount of embodied carbon associated with the manufacture and transportation of PV panels, the loss of agricultural land leading to import and transportation of food and associated carbon emissions, and the likely benefits associated with the energy that would be generated [ER 3.5.32]. 7000 Acres raised concerns that the Applicant had failed to provide information on how it reached its conclusions, particularly with regard to decommissioning and had not taken account of GHG emissions caused by importing crops displaced by the Proposed Development [ER 3.5.35].
- 4.52. During Examination, the ExA queried if the assessments in the ES had accounted for crops used in the production of renewable energy [ER 3.5.38]. The Applicant responded that the impact of foregone biofuel crop cultivation from the Proposed Development had not been taken into account as PV modules are much more efficient than plants in converting sunlight to useable energy and studies indicate the annual energy yield per unit area is lower by orders of magnitude for biofuel crops than for photovoltaics [REP5-047].

### *The ExA's Conclusion on Climate Change*

- 4.53. The ExA was satisfied with the Applicant's methodology and contextualisation of the carbon emissions that would result from the Proposed Development, in the context of carbon budgets and against a counterfactual fossil fuel energy generation process [ER 3.5.40]. The ExA noted the estimated lifetime carbon reduction, relative to the counterfactual CCGT, of over 9 million tonnes CO<sub>2</sub>e [ER 3.5.41].
- 4.54. WLDC raised that the embedded carbon in the construction phase and replacement of panels during the operational phase should count against the Proposed Development [ER 3.5.42]. The ExA agreed with the Applicant that the assessment should be undertaken on a whole life assessment and that the savings identified are a substantial positive benefit of the Proposed Development [ER 3.5.42].
- 4.55. The ExA agreed with the Applicant's conclusion that the Proposed Development would result in a positive benefit, the project's net GHG impacts are below zero compared to the without project baseline and that a project with beneficial effects substantially exceeds net zero requirements with a positive climate impact [ER 3.5.46]. The ExA ascribed great weight in the overall balance [ER 3.5.46].

### *The Secretary of State's Conclusion on Need, Alternatives and Generating Capacity, including Climate Change*

- 4.56. The Secretary of State considers that for this development climate change and the reduction of 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, alternatives and generating capacity, including climate change is given below in paragraph 4.61.
- 4.57. The Secretary of State is satisfied that emissions at all stages of the lifecycle of the Proposed Development have been assessed in line with 2011 NPS EN-1 and 2024 NPS EN-1 and that the Applicant addressed the loss of agricultural land and considered a scenario where the land was used for the production of biofuel crops. The Secretary of State is also satisfied that the Applicant has taken all reasonable steps to reduce GHG emissions during construction, operation and decommissioning, in line with 2024 NPS EN-1. The Secretary of State agrees with the ExA that while there is uncertainty around the final decommissioning emissions totals, these are orders of magnitudes less against the carbon savings identified.
- 4.58. The Secretary of State notes an inconsistency in the Applicant's ES: the Applicant states the total emissions during construction are 408,446 tCO<sub>2</sub> [APP-015 6.10.8] which is also quoted by the ExA [ER 3.5.15]. The construction emissions total is later calculated as 433,651 tCO<sub>2</sub> [APP-015 6-20]. The Secretary of State notes that the construction emissions figure is later given as 434,259 [APP-015 Table 6-23] which is used to calculate the lifetime total emissions of the Proposed Development. While the Secretary of State cannot reconcile the inconsistency in these figures, he is content that the largest figure is carried into the lifetime total emissions, which is then used to provide context regarding the climate implications of the Proposed Development and the Applicant's conclusion on significance and referred to by the ExA in coming to its conclusions.
- 4.59. 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. The ExA concluded that the net GHG emissions are below zero compared to this baseline and for this, and other reasons, ascribed great positive weight to the GHG savings of the Proposed Development. While the Secretary of State does not accept the applicant's baseline, as the ExA had, 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 all other information within the Applicant's ES, he is satisfied that the Proposed Development would result in considerable carbon savings compared to the UK grid average and supports the trajectory to net zero.

- 4.60. The Secretary of State agrees with the ExA that the general need for the Proposed Development is made out, in line with 2011 NPS EN-1, 2024 NPS EN-1 and 2024 NPS EN-3. The Secretary of State agrees with the ExA that alternatives have been appropriately considered and no other alternatives are deemed preferable, in line with 2011 NPS EN-1 and 2024 NPS EN-1. The Secretary of State agrees with the ExA that the Applicant's ES provides a reasonable assessment of the likely generating capacity of the Proposed Development.
- 4.61. The Secretary of State notes that paragraph 3.2.3 of 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 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 the urgent need for utility scale solar photovoltaics, will generate up to 530 MW and result in considerable carbon savings, supporting the trajectory to net zero. The Secretary of State therefore attributes substantial positive weight to the need for the development, inclusive of climate change.

#### Historic Environment

- 4.62. 2011 NPS EN-1 states that construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts to the historic environment and that an applicant should provide a description of the significance of heritage assets affected by development along with the contribution of their setting to that significance [ER 3.6.3]. 2011 NPS EN-1 advises that during decision making there should be a presumption in favour of the conservation of designated heritage assets and that loss affecting any designated assets should require clear and convincing justification [ER 3.6.5]. Furthermore, in paragraph 5.8.15 of 2011 NPS EN-1 "*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*" [ER 3.6.7]. 2011 NPS EN-1 also refers to considering the impacts on other non-designated heritage assets on the basis that assets have a heritage significance that merits consideration in decision making, even though the assets are of lesser value than designated heritage assets [ER 3.6.4]. 2011 NPS EN-5 is especially relevant in relation to archaeological consequences of electricity line installation and the impacts of undergrounding [ER 3.6.9].
- 4.63. 2024 NPS EN-1, EN-3 and EN-5 also make clear that the Secretary of State should give considerable importance and weight to the desirability of preserving all designated heritage assets, further in paragraph 5.9.27 of 2024 NPS EN-1 "*when considering the impact of a*

*proposed development on the significance of a designated heritage asset, the Secretary of State should give great weight to the asset's conservation" and in paragraph 5.9.28 "the Secretary of State should give considerable importance and weight to the desirability of preserving all heritage assets" [ER 3.6.10].*

- 4.64. CLLP policies S57 and S58 aim to protect, conserve and seek opportunities to enhance the historic environment of Central Lincolnshire and contain specific advice on development within conservation areas or affecting archaeological remains or listed buildings. BDCCS policy DM8 and BDC Draft Local Plan 2020-2038 policies ST42 and 43 also lay out the importance of the historic environment and that there will be presumption against development detrimental to the significance of a heritage asset.
- 4.65. The Applicant presented their assessment and findings on the effects of the Proposed Development on cultural heritage in ES Chapter 7 (Cultural Heritage) [APP-016]. The Applicant assessed designated heritage assets within a 3km study area of the Solar and Energy Storage Park boundary, including the GCC where it falls within these 3km, and, where the GCC is located beyond the 3km, a 500m study area for the GCC [ER 3.6.17]. The Applicant further assessed the setting of designated heritage assets of the highest significance in a wider 5km study area [ER 3.6.17]. The Applicant assessed non-designated heritage assets within a 1km study area of the Solar and Energy Storage Park and 500m for the GCC [ER 3.6.17].
- 4.66. The Applicant found that there are no designated heritage assets, scheduled monuments, listed buildings or conservation areas within the overall site [ER 3.6.18]. Within the 3km study area of the Solar and Energy Storage Park there are six scheduled monuments and 65 listed buildings and within the 500m study area of the GCC there is one scheduled monument and two listed buildings [ER 3.6.19]. There are a further nine scheduled monuments, six listed buildings and four conservation areas within the wider 5km study area of the Solar and Energy Storage Park [ER 3.6.19]. There are 31 non-designated heritage assets within the Solar and Energy Storage Park boundary and nine within the GCC boundary [ER 3.6.18].
- 4.67. Avoidance measures such as site design, use of a buried cable for the GCC, route selection and siting for the GCC, as well as mitigation measures such as panel free buffer zones, screening, planting and reducing night light are secured through the works package in the rDCO and the ODP to avoid and reduce potential significant effects during construction and decommissioning [ER 3.6.21]. The Applicant also noted enhancement measures such as the retention of selected field boundaries which would enhance elements of the historic landscape character, including the pattern of 19<sup>th</sup> century enclosures that were lost due to boundary removals in the 20<sup>th</sup> century [ER 3.6.30].
- 4.68. The Applicant concluded that there were no significant effects to the setting of designated heritage assets during construction, operation or decommissioning of the Proposed Development [ER 3.6.23 et seq.]. However, the Applicant concluded that there were ten instances where there were significant effects on non-designated heritage assets without additional mitigation, the impact being *"physical impacts resulting in the loss of multiple elements of the asset"* [APP-016 Table 7.5]. The Applicant proposed additional mitigation measures for these ten sites in the form of archaeological excavation and recording, and states this was agreed in principle in consultation with the archaeological advisors to LCC and NCC and set out in the Archaeological Mitigation Strategy ("AMS") [REP5-027 and REP5-029], secured by requirement ("R") 11 of Schedule 2 of the dDCO [APP-016 7.10.135]. The Applicant concluded that the residual effect, following the implementation of

embedded and additional mitigation as set out in the AMS, would reduce the magnitude of impacts on individual assets to a residual minor adverse effect, which is not significant [ER 3.6.31].

#### *Views of IPs*

- 4.69. Historic England (“HE”) raised during the Examination that it is important to manage risk of avoidance/unmitigated damage to buried archaeological remains and referred to the expertise of local authority archaeological advisors to advise upon the suitability of Written Schemes of Investigation (“WSI”) and accordance with a robust overall strategy secured within the dDCO [ER 3.6.32]. A final signed SoCG between the Applicant and HE confirmed that HE had no objection to the Proposed Development as presented in the Application [REP-011].
- 4.70. WLDC in its LIR [REP-053] noted that CLLP policy S57 states that development should protect, conserve and seek opportunities to enhance the historic environment [ER 3.6.34]. WLDC noted that ten heritage assets would be negatively significantly affected during construction and that while the AMS is considered a comprehensive document, it does not reference the proposed Cottam or West Burton solar schemes which would share the GCC [ER 3.6.34]. However, in its SoCG, WLDC confirmed that there were no areas of disagreement regarding the cultural heritage assessment and methodology [REP6-012]. LCC in its LIR [REP-043] noted that the archaeological evaluation work had been satisfactorily completed and the mitigation strategy agreed and there were no negative impacts identified in respect of archaeology and the Proposed Development was not at odds with the requirements of CLLP policy S57 [ER 3.6.35]. LCC confirmed in its SoCG there were no areas of disagreement regarding cultural heritage, and it agreed with the AMS [REP6-022]. NCC did not raise any issue in respect of cultural heritage in its LIR [REP-045]. BDC in its LIR noted the impact on the setting of heritage assets but welcomed an underground cable route that would not require any new associated structures [REP-038]. In the joint SoCG between the Applicant and NCC and BDC [REP6-014], both councils agreed that there were no areas of disagreement in respect of the methodology and impacts identified regarding cultural heritage and BDC agreed with the WSI and AMS supplied by the Applicant.

#### *The ExA’s Conclusion on Historic Environment*

- 4.71. The ExA set out its conclusion on historic environment at ER 3.6.46 – 3.6.59.
- 4.72. The ExA was satisfied that, with embedded mitigation alongside additional mitigation, the Proposed Development would not result in significant adverse effects to any of the designated heritage assets [ER 3.6.53]. The ExA noted the ES identified 10 non-designated heritage assets which would experience a moderate adverse effect, which is considered significant, but noted that additional mitigation through archaeological excavation and recording was secured through the AMS [ER 3.6.49]. The ExA noted that the conclusion of the ES was a residual minor adverse effect, which the Applicant stated was not significant [ER 3.6.54]. The ExA was satisfied that, both individually and cumulatively, the harms identified would be less than substantial [ER 3.6.54].
- 4.73. The ExA noted that the NPSs and LDPs make clear that great weight is to be given to the conservation of historic assets and any harm to, or loss of, significance of a designated heritage asset should require clear and convincing justification [ER 3.6.55]. The ExA



considered that, whilst there would be some harm to a number of designated heritage assets and non-designated archaeological assets, and this harm should be afforded great weight, it would be mitigated by embedded mitigation and additional mitigation, noting, “*where residual harm remains for the archaeological assets there would be a degree of mitigation through the recording that is detailed in the WSI*” [ER 3.6.58].

- 4.74. The ExA affords any harm to heritage assets great weight, but notes this is to be balanced against the benefits of the Proposed Development according to the scale of the harm and the nature of the asset [ER 5.2.23]. The ExA concluded that harm would be less than substantial and, taking account of the need for the Proposed Development, concluded that the resultant harm is clearly outweighed by the wider public benefits of the proposal. The ExA attributed this resultant harm moderate negative weight in the overall planning balance [ER 5.2.23].

#### *The Secretary of State’s Conclusion on Historic Environment*

- 4.75. The Secretary of State is satisfied that the methodology used by the Applicant in assessing cultural heritage is appropriate and agrees with the findings of the ES. The Secretary of State considers that the Application meets the requirements of 2011 NPS EN-1, 2024 NPS EN-1 and LDPs.
- 4.76. The Secretary of State considers that solar panel buffer zones as a form of embedded mitigation are secured through the ODP and rDCO and, along with avoidance, other embedded mitigation and additional mitigation, would ensure there is no significant effect on any designated heritage asset or the setting of any designated heritage asset. The Secretary of State therefore agrees with the ExA that the Proposed Development would not result in significant adverse effects to any designated heritage assets.
- 4.77. The Secretary of State notes that ten non-designated heritage assets would experience a moderate adverse significant effect, prior to additional mitigation. The Secretary of State notes that following the application of additional mitigation in the form of archaeological excavation and recording, the Applicant states these non-designated heritage assets would experience a residual minor adverse effect. However, the Secretary of State does not consider that the removal and recording of archaeological remains mitigates harm to archaeological features. Such steps are required but do not amount to mitigation of harm. The Secretary of State therefore disagrees with the conclusion of the Applicant and the ExA and finds that the non-designated heritage assets would experience a residual moderate adverse significant effect.
- 4.78. The Secretary of State affords any harm to heritage assets great weight, and gives considerable importance and weight to the preservation of heritage assets, but notes that this is to be balanced against the benefits of the Proposed Development. Considering that no designated heritage assets will experience a significant adverse effect and notwithstanding the residual moderate adverse significant effect on ten non-designated heritage assets, the resultant harm would be less than substantial and is outweighed by the wider public benefits. The Secretary of State attributes moderate negative weight in the overall planning balance to historic environment.

## Human Health and Wellbeing

- 4.79. 2011 NPS EN-1 states that energy production has the potential to impact on the health and wellbeing of the population through direct impacts such as increased traffic, air or water pollution, dust, odour, hazardous waste and substances, noise, exposure to radiation and increases in pests [ER 3.7.2]. Indirect impacts could result from effects to the composition, size or proximity of the local population [ER 3.7.2]. 2011 NPS EN-5 contains guidance on the assessment of the effects of electromagnetic fields (“EMF”) with reference to guidelines published by the International Commission on Non-Ionising Radiation Protection (“ICNIRP”) [ER 3.7.4].
- 4.80. 2024 NPS EN-1 and 2024 NPS EN-5 contain similar guidance to the 2011 NPSs. LDPs seek to ensure health and wellbeing outcomes are taken into account and demonstrated by applicants, they also refer to effects from noise, air quality, traffic and transport and use of Public Rights of Way (“PRoWs”) which potentially affect health and wellbeing [ER 3.7.6].
- 4.81. The Applicant presented their assessment and findings on the effects of the Proposed Development on human health in ES Chapter 14 (Human Health and Wellbeing) [APP-023]. The Applicant also refers to information on health and wellbeing presented in ES Chapter 11 (Noise and Vibration) [APP-020], ES Chapter 12 (Socio-Economics and Land Use) [APP-021], ES Chapter 13 (Transport and Access) [APP-022] and Chapter 15 (Other Environmental Topics including Air Quality) [APP-024].
- 4.82. The Applicant identified a study area of five wards across Bassetlaw and West Lindsey districts including Rampton, Sturton, Lea, Stow and Torksey wards [APP-023 14.5.1]. The Applicant noted there is no consolidated methodology or practise for the assessment of effects on human health and adopts best practise principles from NHS England’s Healthy Urban Development Unit’s (“HUDU”) Rapid Health Impact Assessment Toolkit 2019 and the Health and Wellbeing checklist of the Wales Health Impact Assessment Support Unit (“WHIASU”) 2020 [ER 3.7.8]. The Applicant considered the following health and wellbeing determinants of relevance: access to healthcare services and other social infrastructure; air quality, noise and neighbourhood amenity; accessibility and active travel; access to work and training; and social cohesion and neighbourhoods [APP-023 14.6.4].
- 4.83. The Applicant determined the existing baseline with reference to ES Chapter 12 which provides a review of the local area, community resources, recreational routes and human health profile of the local population using data from Public Health England and other relevant sources [APP-023 14.7.2]. The Applicant considered that the future baseline is anticipated to be the same as the existing baseline [APP-023 14.7.39].
- 4.84. The Applicant scoped out the impact of EMF generated by the cable route on local receptors, noting that only 400kV cable circuit will run underground, and it is assumed these cables will be at least 10 metres from any property [ER 3.7.10]. The Applicant further states that EMF reduces rapidly with distance and a maximum 4% of the permitted levels at 5 metres will be experienced, while users of PRoWs (which cross the proposed cable route) will be exposed for only short periods of time [ER 3.7.10].
- 4.85. In terms of access to healthcare services and other social infrastructure, the Applicant acknowledged that during construction there would be an increase from the current baseline of 1,887 patients per GP to 1,889 patients per GP (within the wider Primary Care Networks), in a worst case scenario, which slightly exceeds the recommended ratio set by the Royal

College of General Practitioners of 1,800 patients per GP [APP-023 Table 14-5]. The Applicant found the Proposed Development would have no significant effects on transport and access. The Applicant assessed the impact on healthcare services during construction as neutral, during operation as neutral and, while noting the uncertainty for over 60 years into the future, neutral during decommissioning [APP-023 Table 14-5]. The Applicant also found that the capacity of local social infrastructure would not be impacted during construction and that there was sufficient capacity to accommodate construction workers, while the Construction Traffic Management Plan (“CTMP”) would manage construction traffic. The Applicant assessed the impact on other social infrastructure during construction as neutral, during operation as neutral and, while noting the uncertainty for over 60 years in the future, during decommissioning as neutral [APP-023 Table 14-5].

- 4.86. With regard to air quality, noise and neighbourhood amenity, the Applicant concluded there was a negative impact on health during construction due to the impact on noise receptors on Marton Road and B1241 High Street [APP-023 Table 14-6]. Impacts due to air quality, dust and vibration were not significant. Therefore, no effects were anticipated during the operational phase and, on the basis that effects would be the same as during construction, the Applicant concluded there would be a negative impact on health during decommissioning [ER 3.7.14].
- 4.87. For accessibility and active travel, the Applicant concluded that, due to limited numbers of temporary diversions to PRow around the GCC during cabling installation, there would be a negative impact on health and wellbeing [APP-023 Table 14-7]. The Applicant assessed the impact during operation as neutral and, in line with the impact during construction, the impact during decommissioning is assessed as negative [APP-023 Table 14-7].
- 4.88. In terms of access to work and training, the Applicant estimates that 363 total net jobs per annum will be created during the construction period, with 207 being taken up by residents within a 60-minute travel area of the site [ER 3.7.16]. The Applicant also set out in the Outline Skills, Supply Chain and Employment Plan (“OSSCEP”) [APP-228] that they will consider a provision of an apprenticeship programme, training placements and a school/college engagement programme to promote science, technology, engineering and mathematics education and careers [ER 3.7.16]. The Applicant assessed the health impact during construction as positive, due to an increase in temporary employment and training opportunities for those in the local study area and beyond [APP-023 Table 14-8]. During operation, total net employment would be slightly increased by 11.5 full time equivalent jobs, although based on the scale of this, the health impact is assessed as neutral [APP-023 Table 14-8]. During decommissioning, the same number of jobs is expected as during the construction phase and the Applicant assesses this impact as positive [ER 3.7.16].
- 4.89. With regard to social cohesion and lifetime neighbourhoods, the Applicant notes the temporary diversion of PRow around the GCC but does not consider that this will lead to a severance of communities and is a neutral health and wellbeing impact [ER 3.7.17]. During operation, access to all PRow will be maintained and the impact is assessed as neutral, as it is for decommissioning, noting the similar implications on PRow links as in the construction period [ER 3.7.17].

#### *Cumulative Effects for Human Health and Wellbeing*

- 4.90. The Applicant also assessed the cumulative effects between the Proposed Development, West Burton and Cottam solar projects. With regard to access to healthcare services and

other social infrastructure, the Applicant notes that the traffic data on which these assessments are based already includes the change in traffic generated by these schemes [APP-023 14.12.4]. The Applicant confirmed that discussions have been held with the developer for these projects to review how they could work together to minimise cumulative effects where viable, noting particularly that a joint CTMP could be prepared with West Burton Solar Project [APP-023 14.12.4]. The Applicant considers that the Proposed Development, in combination with West Burton and Cottam solar projects which have potentially overlapping construction periods, could create a peak of 1,886 workers which could have implications on access to healthcare services by increasing the number of patients per GP to 1,905, from an existing baseline of 1,880, "*which greatly exceeds the recommended ratio as set by the Royal College of General Practitioners*" [APP-023 14.12.5].

- 4.91. For air quality, noise and neighbourhood amenity, the Applicant notes the Proposed Development, West Burton and Cottam solar projects will prepare a joint Construction Environmental Management Plan ("CEMP") in order to manage construction traffic and another air quality assessment will need to be produced [ER 3.7.21]. The Applicant states that mitigation measures in the CEMP and Decommissioning Environmental Management Plan ("DEMP") will minimise combined noise effects where possible, and it is assumed other developments will adopt standard working practices and noise and vibration levels will comply with set limits [ER 3.7.22]. Cumulative effects at common noise sensitive receptors are therefore not expected during construction, decommissioning or operation [APP-023 14.12.10].
- 4.92. For accessibility and active travel, the Applicant considered the overall cumulative effect on PRoW during construction and decommissioning has the potential to have a greater effect, due to the cumulative scheme of West Burton Solar Park adjacent to the Proposed Development, however, the effect is expected to remain temporary minor adverse and not considered significant [ER 3.7.19].
- 4.93. For access to work and training, the Applicant notes that West Burton and Cottam solar projects expect to commence construction in Q1 2024 until Q4 2025, and so would overlap with the Proposed Development for approximately 12 months in 2025 [ER 3.7.20]. The Applicant considers the overall cumulative effect during construction and decommissioning to be temporary minor beneficial and not considered significant and a negligible effect during operation [APP-023 14.12.7].
- 4.94. The Applicant does not explicitly assess the cumulative impacts on social cohesion and lifetime neighbourhoods but notes the potential for a greater cumulative effect on PRoW during construction and decommissioning but that the effect is still expected to remain temporary minor adverse and not significant, while access to all PRoW will be maintained during operation [APP-023 14.12.6].

#### *Views of IPs*

- 4.95. In its RR [RR-280] the UK Health Security Agency ("UKHSA") acknowledged the ES had not identified any issues that would significantly affect public health but raised concerns around the use of the HUDU and WHIASU methodology as it does not include an assessment of significance for those elements scoped in as required under the EIA Regulations [ER 3.7.23]. In this case, UKHSA "*recognise that in this instance any additional assessment of significance is unlikely to significantly alter the findings*" [RR-280]. UKHSA also stated "*following our review of the submitted documentation we are satisfied that the proposed*

*development should not result in any significant adverse impact on public health. However, as it still remains unclear how the judgement on the health impacts of EMF was reached, we are registering an interest with the Planning Inspectorate on this occasion” [RR-280].*

- 4.96. WLDC in its LIR [REP-053] notes the positive impacts during construction and decommissioning of measures to promote take up of jobs locally and provision of training opportunities, neutral impacts of operational job creation and severance between local residents and healthcare facilities or other social infrastructure. WLDC then notes that during construction and decommissioning the impact on human health and wellbeing is assessed as negative, noting the increase in GP ratios and noise impacts [REP-053]. In its SoCG, WLDC maintains disagreement with the Applicant’s conclusion regarding GP ratios that “*for the vast majority of the construction period, such additional demand would not arise*” [REP6-012]. LCC in its LIR [REP-043] referred to CLLP policy S54 and stated that the council’s Director of Public Health was undertaking research into the potential health impacts of large scale solar farms and this would be brought to the attention of the Examining Authority if concluded during the Examination. LCC also raised concerns around the issue of a battery fire (the ExA deals with this under the section on Major Accidents and Disasters in the ExA’s Report). NCC in its LIR [REP-043] referred to Nottinghamshire and Nottingham Replacement Waste Local Plan Part 1: Waste Core Strategy (2013) (“NNRWLP”) policy S03: Community Well-being of the which seeks to protect local amenity and quality of life and address local health concerns. BDC in its LIR [REP-038] draws attention to BDCCS policies DM4 and DM10 which seek to protect amenity and the issues identified with regard to impact due to matters such as noise. Many IPs referred to the impact on mental health of residents due to significant areas of solar panels reducing the enjoyment of access to the countryside, especially in combination with other solar schemes in the area [ER 3.7.33]. 7000 Acres made a number of submissions raising concerns with the adequacy of the Applicant’s assessment and its understanding of the inequalities and levels of deprivation in the area [REP2-075].
- 4.97. The ExA asked questions at ExQ1 [PD-006] regarding how the Applicant had taken on board mental health impacts, to which the Applicant replied [REP2-041] that it had embedded mitigation measures secured through the fCEMP, framework OEMP and fDEMP to reduce effects on human health and wellbeing. WLDC [REP4-059] clarified that concerns around mental health focused on landscape and visual effects given the local communities strong connection with the agricultural culture of the area and stated that cumulative effects due to construction traffic for five years or more would discourage the use of rural highways for recreational use [ER 3.7.41].
- 4.98. The ExA sought clarification from the Applicant on its assessment of human health methodology and the extent of the study area, to which the Applicant responded to confirm that it had carried out an appropriate health impact assessment which had not been subject to any objection in the Scoping responses [REP5-047]. The Applicant stated that the study area was identified on the basis of those areas that would be directly affected but, as the health assessment draws on other assessments in the ES, it does take on board effects over a wider area [ER 3.7.43].
- 4.99. The ExA raised questions in ExQ1 [PD-006], ExQ2 [PD-009] and at ISH3 around EMF, directing the Applicant to explain why it considered there would be no adverse effects from EMF and asking the UKHSA and Host Authorities to confirm they were content with the methodology and conclusions. The Applicant clarified that a technical report addressing UKHSA’s queries around the methodology was submitted to UKHSA who agreed that the Applicant had carried out appropriate methodology and calculations to assess that the cable

will comply with the recommended EMF exposure guidelines, as set out in the code of practice 'Power Lines: Demonstrating compliance with EMF public exposure guidelines, a voluntary Code of Practice' [REP4-001].

#### *The ExA's Conclusion on Human Health and Wellbeing*

- 4.100. The ExA considered that there was no evidence from the Host Authorities or Health Authorities that the Applicant's methodology for the assessment of effects on human health was the wrong approach, noting it was based on HUDU and WHIASU [ER 3.7.48]. The ExA noted that UKHSA had raised concerns regarding this methodology but then stated that in this instance any additional assessment of significance was unlikely to significantly alter the findings [ER 3.7.48]. The ExA further notes that similar assessments have been undertaken in other granted DCOs, the Applicant also takes account of conclusions reached in other chapters of the ES and makes conclusions based on other factors related to health indices [ER 3.7.49]. The ExA was satisfied that the assessment undertaken covered the likely significant effects that would arise in relation to human health and wellbeing [ER 3.7.49].
- 4.101. In terms of access to healthcare, the ExA noted the increase in GP ratio from a baseline of 1,880 patients per GP to 1,905 per GP due to the Proposed Development, West Burton and Cottam solar projects [ER 3.7.50]. The ExA noted this would be a very worst-case whereby the peak construction months for all schemes would coincide and further notes the Applicant's suggestion that factors such as home working, worker numbers being below the forecast or construction not being completely coincidental would reduce this further [ER 3.7.50]. The ExA notes that the increase in patients per GP is a negative effect of the Proposed Development alone and cumulatively, albeit a temporary effect during construction and potentially decommissioning [ER 3.7.51]. The ExA accepted that some of the work force may already be resident in the area and others may commute and some travel and stay [ER 3.7.51]. The ExA assessed this harm as a moderate adverse effect in the overall balance [ER 3.7.51].
- 4.102. The ExA considered EMF effects in relation to human health, noting that the UKHSA's concerns regarding the Applicant's assessments had been withdrawn following further technical information from the Applicant [ER 3.7.57]. The ExA noted that the ODP [REP6-008] secures a minimum depth for the buried cable of 0.9m and a minimum separation distance of 10m from any residential receptor which is consistent with the approach and methodology which the UKHSA accepted, and these parameters are secured via the rDCO [ER 3.7.57]. The ExA concluded that there would be no significant effect on human health resultant from EMF and this was consistent with 2011 NPS EN-5 [ER 3.7.58].
- 4.103. Overall, the ExA concluded that there are adverse effects resultant from a significant increase in the GP ratio in the area for a limited period during construction and these could be moderated by working from home, the age profile of the work force and is dependent on the cumulative effects from other solar schemes in the area [ER 3.7.59]. The ExA concluded this was a moderate adverse health impact to weigh in the overall balance [ER 3.7.59]. The ExA was satisfied that with the operation of various management plans and the maintenance of access to PRow that any adverse effects on accessibility, isolation or preclusion for access to health benefits from accessing the countryside would be limited and mitigated and as such would not weigh negatively in the balance in relation to health impacts [ER 3.7.59]. The ExA found that there were no conflicts with the relevant NPSs [ER 3.7.59].

## *The Secretary of State's Conclusion on Human Health and Wellbeing*

- 4.104. The Secretary of State is satisfied that he has sufficient information to undertake an assessment of the likely significant effects that would arise in relation to human health and wellbeing. The Secretary of State considers that an assessment of significance should have been included in the analysis, but on balance agrees with the UKHSA that this would be unlikely to affect the findings of the ES.
- 4.105. The Secretary of State agrees with the approach taken by the ExA and is satisfied that impacts due to air quality, noise and neighbourhood amenity and access to work and training are weighed in the planning balance as part of the air quality, noise and socio-economic sections respectively.
- 4.106. In terms of access to healthcare, the Secretary of State notes the increase in GP ratio from 1,887 patients per GP to 1,889 patients per GP, as a result of the Proposed Development alone, given in the Applicant's ES. The Secretary of State calculates the 'with Proposed Development' figure as 1,889.9 and rounds this to 1,890 patients per GP.
- 4.107. Cumulatively, the Applicant submits in the ES that there is an increase from 1,887 patients per GP to 1,905 patients per GP. The Secretary of State notes this figure but cannot reconcile it with the data quoted for the peak construction workers for the Proposed Development, West Burton and Cottam solar projects. The Secretary of State finds an increase to 1,915.4, rounded to 1,915, patients per GP when taking into account 156 workers from Gate Burton, 654 workers from West Burton and 832 workers from Cottam. Alternatively, using the peak workers figure quoted by the Applicant as 1,886 (which is higher than the sum of the peak workforces), the Secretary of State finds an increase to 1,919.6, which he rounds to 1,920 patients per GP. The Secretary of State is satisfied that by using a ratio of 1,920 patients per GP, he is assessing the worst-case scenario.
- 4.108. While the Secretary of State appreciates that an increase to 1,920 patients per GP is more than the baseline of 1,887 patients per GP and above the recommended ratio as set out by the Royal College of General Practitioners, he notes that this is a 1.75% increase. He also notes that this is the very worst-case scenario, where peak construction times overlap for the three projects. The Secretary of State also notes the Applicants consideration that "*the majority of the workforce would have a working age profile and be reasonably healthy so likely not to require access to health facilities at the same rate of the population*". Therefore, the Secretary of State does not agree with the ExA that the harm as a result of increase in patients per GP should carry moderate negative weight and he has ascribed limited negative weight in the planning balance.
- 4.109. The Secretary of State agrees with the ExA that there would be no significant effect in terms of accessibility and active travel or social cohesion and lifetime neighbourhoods, noting that various management plans and maintenance of access to PRow would limit the adverse effects on health benefits from accessing the countryside.
- 4.110. The Secretary of State is satisfied that EMF effects in relation to human health have been properly considered, noting the UKHSA's concerns regarding the assessment had been withdrawn following further technical information. The Secretary of State has reviewed this technical information and is satisfied with the assessment methodology. However, the Secretary of State notes that the ODP [REP6-008] as drafted did not secure a minimum depth for the buried cable, "*The 400kV cable trench for open trenching will be a minimum of*

0.9 and a maximum of 2.5m deep and 1.42m wide and will be a minimum of 10m from any residential receptors” and asked the Applicant during consultation to clarify their wording in relation to the buried cable position. The Applicant responded to confirm that the measurements in the ODP related to the cable itself and not just the trench, that minimum depths quoted are measured to the top of the protective tile and that the 0.9 unit for measurement should be metres. The Applicant provided an updated version of the ODP and referred the Secretary of State to an illustration of the open cut trench cross section in Annex D of ES Appendix 2-B: Grid Connection Construction Method Statement [APP-144]. The Secretary of State is now satisfied that the minimum depth has been secured by the ODP and that there would be no significant effect on human health resultant from EMF.

4.111. Overall, the Secretary of State concludes that there are adverse effects resultant from an increase in the GP ratio in the area during construction. The Secretary of State is satisfied that there are no significant adverse effects on accessibility and active travel or social cohesion and lifelong neighbourhoods, noting that impacts due to air quality, noise and neighbourhood amenity and access to work and training will be weighed in the balance elsewhere. Overall, the Secretary of State ascribes limited negative weight in the planning balance to human health and wellbeing.

#### Landscape and Visual

4.112. 2011 NPS EN-1 recognises that virtually all energy NSIPs will have landscape effects and that applicants need to take account of their potential impacts with the aim to minimise harm and provide reasonable mitigation [ER 3.8.3]. 2011 NPS EN-1 notes that while local character assessments should be taken into account, local landscape designations should not be used in themselves to refuse consent as this may unduly restrict acceptable development [ER 3.8.4]. 2011 NPS EN-1 highlights that as energy NSIPs may be visible over long distances, regard should be paid to the duration of the impacts and visual effects could be had on many receptors or visitors and it is necessary to judge whether adverse impacts would be so damaging as to outweigh the benefits of the project [ER 3.8.5 – 3.8.7]. 2011 NPS EN-5 lays out that consideration should be given to how associated substations are placed in the local landscape “*taking account of such things as topography and the possibility of screening*” [2011 NPS EN-5 2.2.5].

4.113. 2024 NPS EN-1 sets out similar guidance that the Secretary of State should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project [ER 3.8.9]. 2024 NPS EN-3 advises applicants to consider the potential to mitigate landscape and visual impacts through screening with native hedges, trees and woodlands, also noting the relevance of screening from PRoW [ER 3.8.10]. 2024 NPS EN-3 states that the Secretary of State should assess the potential impact on glint and glare from solar panels on nearby homes, motorists, public rights of way and aviation infrastructure, noting however that there is no evidence that glint and glare will significantly impair aircraft safety and is unlikely to be given more than limited weight [ER 3.8.10]. 2024 NPS EN-5 notes that applicants should carefully consider the placement of substations and opportunities for screening [ER 3.8.12].

4.114. CLLP policies S5, S14 and S62 seek development commensurate with the location character and that has regard to landscape character, also ensuring Areas of Great Landscape Value (“AGLV”) are protected, policy S48 seeks to protect walking and cycling infrastructure and policy S66 seeks to protect trees, woodlands and hedgerows [ER 3.8.15]. The NNRWPL policy S02 seeks to protect the landscape and countryside and BDCCS



policies DM4, DM9 and DM10 seek development that respects and is sensitive to its landscape setting [ER 3.8.14].

- 4.115. The Applicant presented their assessment and findings on the effects of the Proposed Development on landscape and visual amenity in ES Chapter 10 (Landscape and Visual Amenity), updated during the Examination at Deadline 2 [REP2-010]. The assessment comprises a Landscape and Visual Impact Assessment (“LVIA”) undertaken and reported by a team of Chartered Landscape Architects in accordance with industry guidance for the construction phase, year 1 of opening, year 15 post opening and decommissioning phases [REP2-010 10.1.4]. The LVIA draws a clear distinction between landscape effects: relating to changes to the landscape as a resource and landscape character and visual effects: relating to changes to visual receptors (people) with views of the landscape and townscape [ER 3.8.16]. The Applicant states the LVIA had reference to the maximum heights outlined by the ODP [REP6-009] which have been applied to the assessment to present a realistic worst-case scenario of the landscape and visual effects and the indicative Site Layout Plan [APP-033] presents a realistic and deliverable layout [ER 3.8.19].
- 4.116. The LVIA was undertaken with reference to baseline conditions recorded by winter and summer fieldwork surveys between December 2021 and October 2022, considered to be representative of the conditions at the point of construction [REP2-010 10.4.4]. A series of Zone of Theoretical Visibility (“ZTV”) figures were prepared to help identify visual receptors likely to be affected by the Proposed Development and establish the extent of the study area [REP2-010 10.4.5]. The Applicant notes it is not possible to identify and assess every individual visual receptor within the ZTV limits, so has grouped receptors and then assessed the greatest adverse effect within the group, ensuring the assessment considers the most realistic worst-case outcome [REP2-010 10.4.6].
- 4.117. The study area was informed by computer generated ZTV modelling, desktop study and analysis including mapping and aerial photography and fieldwork studies [REP2-010 10.5.3]. The initial area of search was refined to extend 2km from the Order limits of the GCC and 3km from the Order limits to the west and 5km to the north, east and south [ER 3.8.20]. The varying radii are due to the topographical setting of the Proposed Development, existing screening from woodland, vegetation along field boundaries and roads and changes in landform [ER 3.8.20]. The Applicant also included elevated ground further to the east within 10km from the Order limits as part of a wider study area to assess long distance landscape and visual effects and cumulative effects [ER 3.8.20]. A specific designated viewpoint, Tillbridge Lane Viewpoint (VP07), is located 9.5km south-east of the Order limits - there is a photomontage in ES Volume 2: Figures 10-16 Photosheets Viewpoints 1-23 that shows the panoramic views to the west [ER 3.8.21]. Another elevated viewpoint along the B1398, Middle Street, northeast of Ingham (C05) has also been included outside of the study area and is approximately 10km from the Order limits [ER 3.8.21].
- 4.118. The Proposed Development site and its surroundings consist of agricultural fields under arable production interspersed with individual trees, hedgerows, tree belts, small woodland blocks and farm access tracks, with several small rural villages located adjacent to or within the vicinity of the Order limits [REP2-010 10.7.3]. The majority of the Order limits is located within a gently undulating landform, which becomes flatter to the east [ER 3.8.22]. The Applicant identified an AGLV, designated by WLDC, which covers part of the study area, extending from Marton in the south to north of Gainsborough, covering land between the River Trent in the west and the East Midlands Railways to the east [ER 3.8.26].

- 4.119. The Applicant identified viewpoints as representative of views experienced by people within the study area and presented these to LCC and NCC in March 2022 [REP2-010 10.7.75]. NCC stated they did not require any further viewpoints, while LCC identified a further ten viewpoints which are now included in a total of 38 viewpoints shown in maps in ES Volume 2: Figure 10-11 [APP-074] and Figure 10-12 [APP-075]. The Applicant provided photomontages at each of these viewpoint locations which are provided in booklets attached to the ES [APP-080 to APP-090 inclusive].
- 4.120. The Applicant set out embedded mitigation measures: modifications to the design to reduce effects include limiting the extent of land-take within the Order limits, siting components and, where possible, minimising impacts on established vegetation and features contributing to landscape character and visual amenity [ER 3.8.30].
- 4.121. During construction, the Applicant concluded there would be no significant landscape effects to landscape character areas (“LCAs”) at regional level, county level or district level [ER 3.8.32]. The Applicant further concluded that there would be no significant effects on the AGLV locally designated landscape, noting that construction will temporarily influence the character, but the main construction activity is located in the less sensitive area of the AGLV [REP2-010 10.9.15]. During construction, there would be temporary significant effects on some Local Landscape Character Areas (“LLCAs”) including LLCA 02: Ancient Woodland Ridge (major adverse), LLCA 06: Clay Farmlands (moderate adverse) and LLCA 10: Cottam Plain (moderate adverse) [ER 3.8.33].
- 4.122. During construction, the Applicant concluded there would be a temporary visual effect of high magnitude which would be of moderate adverse significance for some residential receptors for properties on the fringes of nearby settlements facing the Order limits [ER 3.8.34]. Visual effects for residents in the wider study area reduce to minor, negligible and neutral significance with distance from the Order limits [ER 3.8.34]. All other visual effects are not considered significant [ER 3.8.34].
- 4.123. During construction, road users and public transport would experience visual effects of medium to high magnitude which would be of a major-moderate adverse significance, where open views are available, while the remaining road network will experience effects reducing to minor, negligible or neutral significance with distance [ER 3.8.35]. Train passengers would experience visual effects of medium to low magnitude and therefore moderate-minor adverse significance which are fleeting and oblique to the direction of travel [ER 3.8.35].
- 4.124. Recreational users of PRow LL|Knai|44/2, LL|Upto|53/1 and other PRows along the GCC will experience visual effects of medium to high magnitude which would be of major-moderate adverse significance, while PRows in the wider study area will not experience significant adverse effects due to intervening vegetation, topography, and built structures [ER 3.8.36]. Boat users of the River Trent, visitors to Tillbridge Lane viewpoint, and tourists would not experience significant adverse visual effects as the Proposed Development is screened by vegetation, topography, and built structures [REP2-010 10.9.35 et seq.]. Outdoor workers and farmers in adjoining fields would experience visual effects of medium to low magnitude which would be of moderate-minor adverse significance, while visual effects for farmers in the wider study area reduce to negligible and neutral significance as the Proposed Development is screened [REP2-010 10.9.44 et seq.].
- 4.125. During operation (winter of first year) there would be no significant landscape effects to LCAs at a regional, county or district level, or the AGLV which would experience a low magnitude

of landscape effect resulting in a minor adverse effect which is not significant [ER 3.8.38]. There would be significant effects on LLCA 02: Ancient Woodland Ridge (major adverse) and LLCA 06: Clay Farmlands (moderate adverse) [ER 3.8.38].

- 4.126. During the winter of the first year, residential receptors with open views close to the Order limits will experience a visual effect of medium magnitude which would be of moderate adverse significance; some road users and public transport will experience a visual effect of medium to high magnitude which would be of major-moderate adverse significance; recreational users of some PRowS will experience visual effects of medium magnitude which would be of moderate-minor adverse significance; some outdoor workers will experience a visual effect of medium to low magnitude which would be of moderate-minor adverse significance and; boat users and visitors to Tillbridge Lane viewpoint will not experience significant effects [REP2-010 10.9.69 et seq.].
- 4.127. By year 15 of operation, planting will have established and there would be no significant landscape effects to LCAs at regional, county or district level, or the AGLV [REP2-010 10.9.97]. There would be significant effects on LLCA 02: Ancient Woodland Ridge (major adverse) and LLCA 06: Clay Farmlands (moderate adverse) [REP2-010 10.9.99 et seq.].
- 4.128. By the summer of year 15 the proposed planting and existing deciduous vegetation would be in leaf. New and strengthened hedgerows will be maintained at 3.5m height while tree and shrub belt planting will reach semi-maturity and screen or filter the Proposed Development in the majority of views [REP2-010 10.9.107]. No residential receptors will experience significant adverse effects; some road users and public transport will experience visual effects of medium to low magnitude which would be of moderate-minor adverse significance; recreational users of some PRow will experience visual effects of medium magnitude which would be of moderate-minor adverse significance; some outdoor workers will experience visual effects of medium to low magnitude which would be of minor adverse significance and; boat users and visitors to Tillbridge Lane viewpoint will not experience significant effects [REP2-010 10.9.108 et seq.].
- 4.129. During decommissioning, effects are likely to be similar to those temporary impacts during construction but reduced due to landscape mitigation measures and vegetation which has reached maturity [ER 3.8.41]. There are significant temporary landscape effects to LLCA 02: Ancient Woodland Ridge (moderate adverse) [REP2-010 10.9.130 et seq.]. No significant visual effects are expected aside from effects of major-moderate adverse significance on some PRowS and effects of moderate-minor adverse significance on some outdoor workers [REP2-010 10.9.134 et seq.].
- 4.130. The Applicant concludes that, while there is no additional mitigation to reduce residual effects, in the long term these effects are reversible and embedded mitigation measures within the Outline Landscape and Ecological Management Plan (“OLEMP”) deliver a well-planned and mitigated scheme with no over-riding unacceptable landscape and visual effects [REP2-010 10.10 et seq.].

#### *Cumulative Effects for Landscape and Visual Amenity*

- 4.131. The Applicant presents their cumulative landscape and visual assessment in ES Appendix 10-H Landscape and Visual Cumulative Effects [APP-151]. During construction, the Applicant found minor adverse cumulative landscape effects in conjunction with the demolition of Cottam Power Station, construction of West Burton Solar Project, construction

of Cottam Solar Project and Stow Park Road Residential development [ER 3.8.43]. During operation, the Applicant found a cumulative landscape effect of moderate adverse significance with West Burton and cumulative landscape effect of minor adverse significance with Cottam and Tillbridge projects [ER 3.8.44]. In combination, these four schemes have a cumulative landscape effect of moderate adverse significance: the Applicant notes inter-visibility between the schemes is limited due to the relatively flat nature of the landform and views in combination will typically be dominated by the closest solar farm with others likely to be visible as a distant but discernible element in the view [APP-151 Table 1.3].

4.132. During construction, there will be minor adverse cumulative effects on some visual receptors such as outdoor workers, but other cumulative effects are negligible [APP-151 Table 1.4]. During operation there will be negligible or neutral cumulative effects on all visual receptors assessed [APP-151 Table 1.5].

#### *Views of IPs*

4.133. WLDC in its LIR raised that the sensitivity of residential receptors was rated too low (some receptors reported as moderate), the future baseline lacked detail, effect on workers in indoor locations was not reported, cumulative effects section lacked detail and the glint and glare section lacked detail [ER 3.8.54]. WLDC concluded that the Proposed Development will have an adverse impact on the landscape and character of West Lindsey during all stages of development and, in combination with other solar schemes, would change the landscape character for decades to come [ER 3.8.55].

4.134. LCC set out the key policies in the CLLP that are themed around developments being of a good design and scale that do not detract from the character of an area or disrupt the local amenities [ER 3.8.46]. LCC agreed with the methodology of the LVIA and that it presents a worst-case scenario, however raised that there was an over reliance on planting to screen the development, without full attention to the potential impact of screening on this landscape [ER 3.8.48]. LCC submitted that construction effects were under-estimated in places, due to a lack of consideration of the impact of damage or loss of vegetation due to access requirements but noted this was being discussed with the Applicant [ER 3.8.49]. LCC considered the cumulative change to the landscape would be considerable and had the potential to change the local landscape character at a scale “*of more than local significance*” that would be “*in breach of recognised acceptability, legislation, policy or standards*” [REP-043]. LCC further noted a negative visual impact to users of PRow as a result of the development due to a change of experience from that of woodland and open fields to a more industrial landscape [ER 3.8.52]. LCC concluded that the cumulative impact when combined with other proposed solar farms is negative and the scheme would be contrary to CLLP policies S5, S14 and S16 [ER 3.8.53].

4.135. NCC in its LIR did not specifically address landscape and visual considerations but noted PRow are an important consideration, albeit that as the cabling within the GCC is underground the main disruption would be during the construction phase [ER 3.8.56]. BDC notes BDCCS policy DM4: Design and Character which lays out the importance of new development respecting its wider surroundings including landscape character and that the majority of the cable routing is in the Trent Washlands Character Zone where the policy is to conserve and reinforce [ER 3.8.57].

4.136. Most IPs made comments on the significant effects of the Proposed Development on the local and wider landscape and visual amenity of the area, particularly cumulatively as a result

of the Proposed Development, Cottam, West Burton and Tillbridge solar projects [ER 3.8.60]. IPs raised concerns around screening and proposed mitigation and planting, noting the lack of a credible plan to ensure its establishment [ER 3.8.60]. IPs also noted the Proposed Development would be visible from significant distance from an area of elevated land more than 9km to the east referred to as the Jurassic ridge [ER 3.8.60].

- 4.137. During Examination, the ExA carried out two Unaccompanied Site Inspections [EV-001 and EV-001b] and one Accompanied Site Inspection [EV-001a]. These inspections provided an opportunity to view the surrounding landscape, characteristics of the area and extent of the site within the site boundaries to inform conclusions on the effects of the Proposed Development on landscape and visual amenity in the area [ER 3.8.61].
- 4.138. The ExA notes that no significant points were raised regarding the general methodology and assessment, with Host Authorities agreeing that the Zones of Influence were acceptable, viewpoints had been delivered through consultation and were representative, although issues were raised in relation to the detail of the photomontages [ER 3.8.62]. The ExA questioned mitigation measures and the Applicant confirmed, as stated within the OLEMP, it would be responsible for establishing, managing and monitoring the implementation and establishment of landscape and ecological mitigation within the five-year establishment aftercare period [REP5-047]. Requirement 7 of the dDCO sets out that no development can take place until a Landscape and Ecological Management Plan (“LEMP”), in accordance with the OLEMP, has been submitted and approved by the relevant planning authority [REP5-047]. Requirement 7(2) of the dDCO requires the Applicant to maintain the LEMP throughout the operation of the scheme, following feedback from WLDC and the Applicant has sought temporary use powers required for maintenance in accordance with the LEMP as set out in Article 30(11) of the dDCO [REP5-047].

#### *The ExA’s Conclusion on Landscape and Visual*

- 4.139. The ExA lays out its conclusions on landscape and visual amenity at ER 3.8.66 – 3.8.98. The ExA ascribed moderate negative weight to the impact to the AGLV during construction of the Proposed Development [ER 3.8.72] and little negative weight to the harm to the AGLV from the construction of the GCC in the early years of operation while landscaping establishes [ER 3.8.74].
- 4.140. Regarding cumulative effects, the ExA considered that the cumulative effect of the schemes together would add to any harmful effects and lead to greater adverse effects [ER 3.8.78]. The ExA characterised this as a moderate adverse effect cumulatively given that the area affected is relatively limited, the mitigation measures for all schemes would seek to reduce visual effects, the discrete positioning of each scheme limits opportunities for them to be viewed together and it would only be while sequentially passing through the area that such views are identified [ER 3.8.80].
- 4.141. The ExA considered that the longer views from Tillbridge Lane viewpoint or along the B1398 were representative of longer views from the Jurassic ridge and that the Proposed Development would not be a significant discernible feature in the landscape [ER 3.8.83].
- 4.142. The ExA concluded the Proposed Development would result in material harm to the landscape character of the area, additional harm would result from cumulative effects with the other solar schemes in the area and this harm would remain an adverse residual effect on the landscape character of the area [ER 3.8.93 et seq.]. The ExA concluded the Proposed

Development would result in material harm to the visual amenity of the area during the lifetime of the Proposed Development but that longer distant views from the Jurassic ridge would be limited and not significant due to distance, landform and landscaping [ER 3.8.96]. The ExA concluded that moderate negative weight should be attributed in the overall balance to the harms as a result of the Proposed Development, and cumulatively, to landscape and visual amenity [ER 3.8.98].

#### *The Secretary of State's Conclusion on Landscape and Visual*

- 4.143. The Secretary of State has carefully considered the Applicant's ES and considers that sufficient information has been provided regarding landscape and visual effects from the Proposed Development and cumulatively with the other solar schemes in the area. The Secretary of State has had careful regard to the photomontages in assisting his conclusions. The Secretary of State is satisfied with the methodology and conclusions of the Applicant's ES.
- 4.144. The Secretary of State recognises the value placed by the local community on the AGLV and acknowledges the Proposed Development will harm the AGLV. The Secretary of State notes 2011 NPS EN-1 which advises that locally valued landscapes should not be used in themselves to refuse consent. The Secretary of State ascribes limited negative weight to the impact to the AGLV during the lifetime of the Proposed Development, noting that the Applicant does not foresee significant effects on the AGLV at any point during the lifetime of the Proposed Development. The Secretary of State further notes the impact on three LLCAs during the lifetime of the Proposed Development but agrees with the ExA that the Solar and Energy Storage Park site is a small proportion of the wider LCA areas and that there would be no significant landscape effects on LCAs at regional, county or district scale.
- 4.145. The Secretary of State considers there would be some significant adverse visual effects on some receptors during construction, early operation and decommissioning, which reduce in magnitude and significance as mitigation planting matures. The Secretary of State is satisfied that the views from the Jurassic ridge had been properly assessed and that the longer views from the Tillbridge Lane viewpoint were representative of typical views from the Jurassic ridge, which would not be significant adverse at any point during the lifetime of the Proposed Development. The Secretary of State ascribes limited negative weight to the visual effects of the Proposed Development, noting that there are no significant adverse cumulative effects on visual receptors.
- 4.146. The Secretary of State agrees with the ExA that the cumulative effects of the Proposed Development in conjunction with West Burton, Cottam and Tillbridge solar projects leads to a moderate adverse landscape effect and that material harm to the landscape character would result.
- 4.147. The Secretary of State agrees with the ExA that moderate negative weight should be attributed in the overall balance to the harms as a result of the Proposed Development, and cumulatively, to landscape and visual amenity.

#### Land Use

- 4.148. 2011 NPS EN-1 states that applicants should seek to minimise impacts on Best and Most Versatile ("BMV") agricultural land, defined as land of Agricultural Land Classification ("ALC") grades 1, 2 and 3a, and use land of poorer quality, grades 3b, 4 and 5, except where this

would be inconsistent with other sustainability considerations [ER 3.11.6]. 2011 NPS EN-1 states that schemes should not be sited on areas of BMV land without justification, but that little weight should be given to the loss of poor-quality agricultural land [ER 3.11.7]. 2024 NPS EN-1 advises that the Secretary of State should ensure applicants do not site their scheme on BMV land without justification [ER 3.11.8]. 2024 NPS EN-3 contains more advice on BMV land and considerations relating to this [ER 3.11.9].

- 4.149. The 2015 WMS makes clear that any proposal involving BMV land would need to be justified by the most compelling evidence and the ExA considers it is an important and relevant matter to the determination of this Application [ER 3.11.13]. Policy S67 of CLLP relates to the protection of BMV land while S48, S54 and S59 relate to issues regarding PRoW [ER 3.11.14 et seq.]. Policy DM10 of the BDCCS advises proposals must demonstrate they will not lead to the loss of or damage of high-grade BMV land (Grades 1 and 2) amongst other matters [ER 3.11.16].
- 4.150. The Applicant, in line with advice from Natural England (“NE”), has undertaken detailed ALC site sampling for the majority of the Solar and Energy Storage Park [REP4-010 12.6.6 et seq.]. Soil sampling was not carried out for the GCC as the land would be restored following construction as the cable is installed underground [REP4-010 12.6.8]. For the purposes of the assessment the Applicant considers that a total permanent loss of BMV land exceeding 20 ha is considered significant, a temporary or reversible loss of BMV land exceeding 20 ha or loss of BMV land less than 20 ha is considered not significant and a loss of non-BMV land is considered not significant [REP4-010 12.6.31].
- 4.151. The Applicant carried out soil mapping for the Solar and Energy Storage Park based on site surveys of the Order limits, identifying that it is located within an area of land comprising mainly Grade 3b land and 11% or 73.6 ha of Grade 3a land in total and a further estimated 1% or 6.8 ha of which 2ha is expected to be permanently lost due to the construction of the substation and planting while the remainder would be returned to agricultural land during the operational phase in accordance with the OLEMP [REP4-010 Table 12-12]. For the GCC, the Applicant carried out a desk review, considering that soil surveys were not necessary as the area could return to agricultural use following construction of the cable route [REP4-010 12.7.9]. For the GCC there is 43% or 74.8 ha of Grade 3a land which would all be returned to agriculture following construction [REP4-010 Table 12-13].
- 4.152. The Applicant notes that the Proposed Development has been designed to take into account the quality of agricultural land and the location of the BESS was selected to minimise the impact on BMV whilst balancing surface water, flood risk and visual considerations [REP4-010 12.9.2]. An outline Soil Management Plan (“SMP”) has been prepared for construction and operation which sets out principles and actions to be followed for the handling, storage and reinstatement of soil to be used for the Proposed Development to minimise adverse effects on the nature and quality of the soil resource [REP4-010 12.9.3].
- 4.153. The Applicant notes that England has 9.2 million ha of farmland, the East Midlands 1.2 million ha and West Lindsey 106,474 ha [REP4-010 12.10.27]. In terms of BMV, there are 618,789 ha in the East Midlands and in total the Proposed Development will utilise 155.2 ha during construction with 80.4 ha in use during operation with only 2 ha being permanently lost and not returned to farm use [REP4-010 12.10.25 et seq.]. The Applicant further notes that 6.2 ha in use during operation is part of a solar exclusion zone and therefore could remain in agricultural use during operation, meaning 73 ha would in fact be under solar panels, and could be used for ecological mitigation or in fact still in agricultural use [REP4-010 12.25 et

seq.]. The Applicant states that the BMV used by the Proposed Development during operation represents 0.01% of East Midlands's BMV and the BMV not returned to agricultural at the end of the Proposed Development's lifetime constitutes less than 0.001% of East Midlands's BMV [REP4-010 12.25 et seq.]. The Applicant considers the use of BMV land to result in a minor adverse effect which is not considered significant [REP4-010 12.25 et seq.].

#### *Cumulative Effects for Land Use*

- 4.154. The Applicant stated there is potential for the developments at Little Crow Solar Park and Heckington Fen Solar Park to have a cumulative effect on BMV land as they are located within the East Midlands region, containing 618,789ha of BMV [REP4-010 12.13.10]. Little Crow Solar Park contains 36.6ha of BMV land while Heckington Fen Solar Park contains 211.7ha of BMV [REP4-010 12.13.11]. Together with the 153.2ha utilised during construction of the Proposed Development, 401.5ha would be lost across the East Midlands during construction: less than 0.1% of the regional BMV [REP4-010 12.13.11]. The Applicant stated it is not possible to quantify the use of BMV land for every planned solar park in the region but with consideration of Little Crow and Heckington Fen, considers the cumulative effect to remain minor adverse and not significant [REP4-010 12.13.12].
- 4.155. The Applicant provided at Deadline 2 an Agricultural Land Technical Note [REP2-046]. Figure 1 of this document shows the Order limits of the Proposed Development and 11 other NSIP solar developments and provides a general indication of BMV land that could be taken up by the schemes: the Applicant notes this does not indicate the area lost as some boundaries include GCCs where agricultural use can continue and it does not differentiate between grade 3a and 3b land [REP2-046 4.1.1]. The Applicant considered the publicly available documents for each of the DCO applications and compiled Table 2, noting that for some schemes there is limited information, that where the data does not differentiate between grade 3a and 3b the Applicant has assumed grade 3a and that, where no detail on reversibility has been provided, the Applicant has assumed land will be returned to agricultural use at the end of the scheme [REP2-046 4.1.4]. The Applicant found approximately 3,378.96ha of BMV land would be under PV solar panels and 6.31ha would be permanently lost [REP2-046 4.1.5]. This represents a loss of 0.83% of the total BMV land in Lincolnshire and a permanent loss of 0.001% [REP2-046 4.1.5]. The Applicant also considered the BMV land affected by solar schemes dealt with under the TCPA route in Table 1, similarly noting the lack of information for some applications [REP2-046 4.1.9]. The Applicant found that the total area of BMV land under PV solar panels is 869.74ha of which 1ha is likely to be permanently lost which represents 0.21% and 0.0002% of the BMV land in Lincolnshire respectively [REP2-046 4.1.10].

#### *Views of IPs*

- 4.156. WLDC in its LIR [REP-053] notes the loss of BMV land during construction and operation, noting that while sheep farming can be undertaken under solar panels, this would impact the versatility of the BMV land which is a key element of BMV and WLDC questions whether the land could still be considered BMV [ER 3.11.59]. WLDC further noted the 60-year lifetime of the Proposed Development and that this would likely result in a loss of agricultural knowledge in the area and raised doubts around whether the land would be returned to agricultural use [ER 3.11.60]. WLDC also raised that the Applicant had not used an established methodology for its ALC assessment in the ES [ER 3.11.63].



- 4.157. LCC in its LIR [REP-042] comments on BMV land. LCC commissioned Landscape to produce a report on the impact of the agricultural land affected by the Proposed Development, noting that it is likely to have a cumulative or defined negative impact that will result in the loss of agricultural production in the development area generally and/or the permanent loss of production from mostly medium quality agricultural land [ER 3.11.53]. LCC recommended a requirement in the DCO to ensure a SMP is submitted and approved, particularly noting the damage to soil structure associated with traffic during construction [ER 3.11.54]. LCC concluded that the loss of BMV land is a significant negative impact alone and when considered with the other NSIP scale solar developments being promoted across the county and that the Proposed Development is contrary to CLLP policy S16 [ER 3.11.55].
- 4.158. NCC in its LIR [REP-045] stated it understood soil sampling had not been undertaken as the land within the GCC would be restored to agricultural land following construction but stated it was not yet known if there would be any restrictions on continued agricultural use accommodated with the cable route. NCC considered that providing the majority of the 74.8 ha of BMV land within the GCC could be restored to agricultural use, then this was acceptable in policy terms [ER 3.11.64]. BDC in its LIR [REP-038] concluded similarly to NCC regarding BMV land.
- 4.159. NE requested a table providing the proportion of the Proposed Development against the ALC grades of the site, including areas of permanent and non-permanent loss [RR-193]. NE advised adding a requirement for soil surveys to the DCO to ensure that the route within the GCC is restored to its prior ALC grade [ER 3.11.71]. NE considered the Proposed Development has the potential to lead to permanent reduction in agricultural production [ER 3.11.72]. NE commented that there are unknowns regarding solar development infrastructure on soil properties such as carbon storage, structure and biodiversity, concluding that it is unknown what the overall impact of a temporary solar development will have on soil health [ER 3.11.73]. NE welcomed the preparation of an outline SMP [APP-233]. NE advised that any granting of planning permission was made subject to requirements to safeguard soil resources and agricultural land, further noting that the potential impact would be less if the Proposed Development were time-limited [ER 3.11.74].
- 4.160. Concerns were raised by IPs regarding the amount of agricultural land that would be lost through the Proposed Development, both in terms of the loss of food production and the effect on of food security: many put food security above energy security, recognising that there could be a conflict [ER 3.11.77]. 7000 Acres raised concern around the ALC assessment carried out, noting that samples were at a reduced scale compared to guidance, from 1 borehole per 1 hectare to 1 borehole per 2 hectares [REP2-070]. 7000 Acres stated that the Applicant should provide an assessment of the crop production that would be lost as a result of the Proposed Development [REP2-074]. 7000 Acres submitted that BMV land should be protected to promote food security, help the rural economy and encourage sustainable agricultural practises [REP2-077].
- 4.161. During Examination, the ExA asked questions relating to BMV at ExQ1 [PD-006]. The Applicant provided a breakdown of areas by land classification in an Agricultural Land Technical Note submitted at Deadline 2 [REP2-046]. The Applicant confirmed the outline SMP had been updated to address NE's comments and further provided an ALC survey of the GCC to Appendix B of [REP5-047]. This survey showed that 61.6 ha of the GCC land was BMV, with a further estimated 6.8 ha of BMV land, constituting 38% of the GCC land, less than the 43% estimated within the desk study [ER 3.11.100]. The Applicant confirmed it had amended Requirement 19 of the dDCO to secure a decommissioning period after 60

years [ER 3.11.82]. In its signed SoCG, NE confirmed all matters relating to agricultural land were agreed, that the Applicant's ALC survey approach for the Solar and Energy Storage Park was acceptable and that a further ALC survey was required for the GCC prior to construction commencement [ER 3.11.76].

- 4.162. The Applicant explained that section 7.13 of the Planning Design and Access Statement [REP6-004, REP6-006] sets out the process taken to minimise the impacts on BMV, including retaining agricultural use in some grade 3b land, micro-siting of permanent development to reduce BMV impact and protection of soil resources. The Applicant also advised that areas of grade 3a land within the Solar and Energy Storage Park would not likely be economically viable to farm if removed from the Proposed Development but would introduce gaps into the solar scheme, reducing its efficiency in terms of electricity generation [ER 3.11.84]. The Applicant noted that the development was in accordance with 2011 NPS EN-1: the impacts on BMV land have been minimised and areas of poorer quality have been used in preference where possible and effects on soil quality were being minimised by measures set out in the outline SMP, with a final SMP secured by requirement 17 in the dDCO [ER 3.11.88].
- 4.163. The Applicant noted that large scale solar is one of the most efficient uses of land for energy generation: 30-60 times more land would be needed to grow crops for a biogas plant to generate the same amount of electricity [APP-004].
- 4.164. During the Examination, the Applicant clarified that sheep grazing under solar panels was not a commitment but an option and at ISH 3 confirmed there would be no commitment secured and it was right not to identify it as a future agricultural use of land [ER 3.11.94]. The Applicant amended its ES to remove references to sheep grazing as continued agricultural use of land as a mitigating factor [ER 3.11.98].
- 4.165. The Applicant also quantified the loss in agricultural production, stating there would be a reduction in wheat production of 103 tonnes if other land was used instead of BMV land within the Solar Energy and Storage Park for production, compared to the 15.5 million tonnes of wheat produced in the UK [ER 3.11.95].

#### *The ExA's Conclusion on Land Use*

- 4.166. The ExA considered that the Applicant's assessment of ALC land within the Solar and Energy Storage Park and GCC provided for a reasonable basis for the identification and assessment of BMV land, noting that NE were satisfied with the approach and the assessments were undertaken by competent professionals exercising judgement and providing justification where appropriate [ER 3.11.107].
- 4.167. The ExA concluded that the Proposed Development would utilise approximately 155 ha of BMV: 80.4 ha within the Solar and Energy Storage Park and the remainder within the GCC which would be restored following construction [ER 3.11.108]. The ExA concluded 2 ha within the Solar and Energy Storage Park would be permanently lost due to construction of the substation and BESS [ER 3.11.108]. The ExA considered the Applicant had demonstrated, in line with policy, having regard to BMV land and avoiding loss where possible, noting the permanent loss of 2 ha and loss of 73 ha over 60 years is a significant adverse effect of the Proposed Development [ER 3.11.110]. However, the ExA noted this is temporary and reversible for the majority of land and only a small proportion of overall BMV land within West Lindsey and the East Midlands is affected [ER 3.11.110].

- 4.168. The ExA was satisfied the loss of BMV land in this case is justified and, while it results in harm, concluded it would attract a moderate amount of negative weight in the overall planning balance [ER 3.11.111]. The ExA considered that, as the GCC is shared with other developments, similar conclusions can be drawn, and the land would be restored within a reasonable period [ER 3.11.111]. Further, the ExA was satisfied that a similar conclusion could be drawn in respect of the cumulative effect the Proposed Development would have in relation to the Solar and Energy Storage Park with other schemes in the locality [ER 3.11.111].
- 4.169. The ExA noted the concerns from IPs regarding the loss of productive agricultural land and food production and noted the Applicant had demonstrated a very minor effect when taken in the context of regional or national figures which would not undermine food security [ER 3.11.113].
- 4.170. The ExA was satisfied with the mechanisms which would be secured within the SMP through requirement 17 of the rDCO to ensure long term monitoring and remedial measures regarding soil [ER 3.11.109].
- 4.171. The ExA concluded the Proposed Development met the requirements of the 2011 NPS, 2024 NPS, 2015 WMS and would be in accordance with national and local policy [ER 3.11.112].

#### *The Secretary of State's Conclusion on Land Use*

- 4.172. The Secretary of State has considered all relevant policy contained within the 2011 and 2024 NPSs relating to solar and land use as important and relevant considerations within the decision-making process. The Secretary of State recognises that the 15 May 2024 WMS<sup>2</sup> emphasises elements of the 2024 NPSs.
- 4.173. The Secretary of State has noted the relevant policy contained within the NPSs, 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.
- 4.174. The Secretary of State agrees with the ExA that the Applicant's assessment of ALC land was reasonable, noting NE were satisfied with the approach taken and reasons given for deviating from the industry guidance. The Secretary of State agrees with the ExA that 2ha of BMV would be permanently lost and around 73ha would be out of arable use for 60 years.
- 4.175. The Secretary of State welcomes the suggestion for sheep grazing under the solar panels but agrees with the ExA that this is not secured and therefore cannot be relied upon as a continuing use of agricultural land or mitigation for the loss of BMV and therefore should not be ascribed weight in the planning balance.
- 4.176. The Secretary of State acknowledges the loss of BMV land for 60 years but considers that the use of agricultural land is necessary, and that the Applicant has demonstrated due regard to BMV land and avoidance of both permanent and temporary loss where possible. The

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<sup>2</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-05-15/hcws466>

Secretary of State notes the potential loss of agricultural knowledge referred to by 7000 Acres and local councils and has taken this into account in his decision.

- 4.177. Cumulatively, the Secretary of State recognises the geographical clustering of solar developments in Lincolnshire and as such has had regard to the Applicant's assessment of cumulative effects and the Agricultural Land Technical Note. 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 those under the TCPA route in the locality. The Secretary of State welcomes the sharing of the GCC with West Burton, Cottam and Tillbridge solar schemes and considers that this land will be returned to agricultural use as soon as construction is completed and that the SMP will ensure the land is returned in the same condition.
- 4.178. The Secretary of State notes a negligible reduction in wheat production due to the Proposed Development and a total loss of 2ha of BMV land. The Secretary of State notes that the cumulative loss of BMV land in Lincolnshire due to NSIP solar projects amounts to 0.83% of the total BMV land with a further 0.21% loss to TCPA solar projects. The Secretary of State considers that this is only around 1% of the total BMV land in Lincolnshire, further noting that the land will be lost for a temporary, albeit long-term period and that the land can be returned upon decommissioning of development to its original state. The Secretary of State places great importance on BMV land but is satisfied that the siting of the Proposed Development 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 long-term, albeit temporary, use of BMV land and ascribes moderate negative weight to land use in the planning balance.

## **5. Habitats Regulation Assessment**

- 5.1. The Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") aim is to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. 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").
- 5.2. The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance ("Ramsar sites"). Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this decision letter as "protected sites").
- 5.3. 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 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 likely significant effects ("LSE") cannot be ruled out, the Secretary of State must undertake an appropriate assessment ("AA") addressing the implication for the protected site in view of its conservation objectives.

- 5.4. Where an adverse effect on the integrity (“AEol”) 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.
- 5.5. 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.
- 5.6. The Applicant submitted a ‘Habitat Regulation Assessment’ (“HRA Report”) [APP-223] with the Application and supporting Environmental Statement (“ES”).
- 5.7. The ExA produced a Report on the Implications for European Sites (“RIES”) [OD-005] at Deadline 4 [ER 4.1.8].
- 5.8. The HRA Report did not identify any protected sites within a 10km Zone of Influence (“Zol”) of the Order Limits boundary. The Applicant concluded that there was no possibility of an impact pathway as a result of the Proposed Development and, therefore, a screening assessment for LSE was not undertaken. NE, in their SoCG with the Applicant [REP6-016], agreed with the conclusions of the Applicant’s HRA Report.
- 5.9. The Applicant also did not identify any LSE on non-UK European sites in European Economic Area (“EEA”) states in its HRA Report. This was not disputed by any IPs during the ExA’s Examination [ER 4.1.16].
- 5.10. At Deadline 1, IPs raised concern that the impacts of electro-magnetic fields (“EMF”) from the Proposed Development on ecology had not been considered in the Applicant’s HRA Report [REP-089].
- 5.11. Noting this, the ExA asked the relevant local planning authorities and the Environment Agency (“EA”) [PD-006; PD-009] to confirm whether they were satisfied that there would be no LSE from EMF, and for the Applicant to justify the conclusion of no LSE in the context of EMF. BDC [REP2-047] and LCC [REP2-050] agreed that the Applicant’s conclusions were sound. NCC [REP2-053] and WLDC [REP2-057] provided no comment on the matter. The EA [REP4-063] identified sea lamprey and river lamprey as qualifying features of the Humber Estuary SAC that utilise the River Trent for migration and spawning where the Proposed Development’s 400kV cable would cross the river. The EA requested that the Applicant undertake a risk review to determine if there was a potential impact pathway from EMF to features of the Humber Estuary SAC, both alone and in-combination with other plans or projects.

- 5.12. At Deadline 5, the Applicant provided a 'Risk Assessment of EMF Impacts on Fish' ("Applicant's Risk Assessment") [REP5-047]. The Applicant's Risk Assessment concluded that given the minimum 5m depth at which the cable would be buried beneath the lowest surveyed point of the riverbed, the calculated EMF levels (32 microteslas at 5m from the centreline of the cable) would be below background levels (50 microteslas) and permitted public exposure limits (360 microteslas). The Applicant's 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. The Applicant's Risk Assessment therefore concluded that potential EMF impacts on fish would be negligible, and an impact pathway could be excluded.
- 5.13. The Secretary of State notes the Applicant's 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.
- 5.14. The EA, in its SoCG with the Applicant [REP6-018], agreed with the methodology and conclusions of the Applicant's Risk Assessment.
- 5.15. The Secretary of State, however, notes that NE as the statutory nature conservation body did not comment on the Applicant's Risk Assessment during the Examination [ER 4.2.9]. In a consultation letter issued on 29 April 2024, the Secretary of State therefore invited NE to comment on whether it was also satisfied with the methodology and conclusions of the Applicant's Risk Assessment.
- 5.16. NE, in a consultation response dated 10 May 2024, accepted the conclusions of the Applicant's Risk Assessment, and considered a significant impact on the qualifying features of the Humber Estuary SAC to be unlikely. However, NE stated that while this conclusion is based upon the current best available evidence, there is limited research into the effects of EMF on migratory fish in the context of freshwater rivers. NE, therefore, advised that there is a need for a programme of monitoring to collect further data in the interests of informing best practice, as well as the design and assessment of future developments. NE also noted that Cottam Solar Project, in the vicinity of the Proposed Development, has committed to producing a monitoring strategy with the EA to assess the effects of the cable crossing associated with Cottam, West Burton, and Tillbridge solar projects on migratory fish in the River Trent. NE commented that a similar approach would be welcomed for the Proposed Development and a collaborative monitoring strategy between the four projects may be suitable to inform the current knowledge base.
- 5.17. The Secretary of State acknowledges the need for further data on the effects of EMF on migratory fish identified by NE, and as such strongly encourages the Applicant to either create a programme of monitoring, or collaborate on the monitoring strategy put forward by Cottam Solar Project, to collect further data on the effects of EMF on migratory fish in the River Trent crossing the proposed grid connection cable.
- 5.18. The Secretary of State notes that mitigation measures have been proposed by the Applicant to avoid local environmental effects. Whilst he agrees with the inclusion of these measures, they have not been considered when reaching the below conclusion.

5.19. The Secretary of State agrees with the ExA that sufficient information has been provided to fulfil his duties under the Habitats Regulations [ER 4.3.3]. Having carefully considered all the information before him, the Secretary of State concludes that potential impact pathways from the Proposed Development to protected sites within the NSN can be excluded, and that there is no potential for LSE alone or in-combination with other plans or projects. This is based upon the integral 5m minimum depth at which the cable would be buried beneath the riverbed of the River Trent, as secured in the Outline Design Principles under Requirement 5 of the DCO. This conclusion and its reasoning are consistent with the advice provided by NE, the EA, and the ExA's recommendation [ER 4.2.10].

## **6. Consideration of Land Rights and Related Matters**

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

- acquire all interests in some land, including freehold, permanently;
- acquire rights permanently over some land;
- temporarily possess some land;
- extinguish and/or suspend rights over some land and override easements and other rights; and
- acquire land and rights from Statutory Undertakers and extinguish or suspend their rights and remove or reposition their apparatus [ER 6.2.2].

### Outstanding Objections and Protective Provisions

6.1. At the close of Examination, several Affected Persons (“APs”) and Statutory Undertakers (“SUs”) had outstanding objections. The Secretary of State wrote to these parties on 29 April 2024 requesting an update.

#### *Emma and Nicholas Hill*

6.2. Emma and Nicholas Hill confirmed by email on 29 April 2024 that a voluntary agreement had not been made and their objection would not be withdrawn. On 2 May 2024, they replied stating that Hill Agriculture is a first-generation farm with land purchased at auction and the solicitors search did not inform them of these cable routes, which would destroy the farmyard. They further responded on 7 May 2024 and 11 May 2024 enclosing a map showing the proposed cable routes through their farmyard due to Gate Burton, West Burton, Cottam and Tillbridge solar projects. The Applicant confirmed on 13 May 2024 that they would continue to engage with Emma and Nicholas Hill but that an agreement on the commercial terms to reach a voluntary land agreement had not yet been made.

6.3. During Examination the Applicant confirmed that it believed it could avoid the site of the barns within the existing extent of the Order lands and existing GCC, but it would be subject to detailed design post decision [ER 6.6.9]. The Applicant also demonstrated its consideration of alternatives and that there were no options that would avoid CA of land. Other options would potentially result in more parties objecting to such CA requirements [ER 6.6.10].

6.4. The ExA was satisfied that the rights to be acquired and/or created were necessary to permit the realisation of the Proposed Development and that the Proposed Development would

result in significant public benefits that outweigh any private interests, such that the compelling case in the public interest is made [ER 6.6.10]. The Secretary of State agrees.

*Shaun Kimberley*

- 6.5. Shaun Kimberley did not respond to the Secretary of State's request for information. The Applicant on 13 May 2024 confirmed that it has continued to engage with Shaun Kimberley to reach a voluntary land agreements, that the agent acting for Shaun Kimberley has noted sufficient provisions were now in place to address Shaun Kimberley's concerns regarding construction impacts and, as such, the Applicant believed Heads of Terms to be agreed and a signed copy to be returned imminently.
- 6.6. The ExA was satisfied that the land was necessary for the realisation of the Proposed Development and that the Proposed Development would result in significant public benefits that outweigh any private interests, such that the compelling case in the public interest is made [ER 6.6.15]. The Secretary of State agrees.

*EDF Energy (Thermal Generation) Limited ("EDF Energy")*

- 6.7. The ExA considered during Examination that the wording requested by EDF [REP7-004] should be included in the rDCO as this would require agreement to be reached between the parties, which is required in any case to facilitate the grid connection [ER 6.7.19]. The ExA was satisfied that, with this alteration, the PPs would operate effectively and ensure there would be no serious detriment to EDF's undertaking [ER 6.7.20].
- 6.8. EDF Energy confirmed by letter on 13 May 2024 that negotiations were continuing but no voluntary land agreement had been agreed and the Applicant had not provided the reassurance to ensure there would be no serious detriment to EDF's undertaking in lieu of such agreement. EDF Energy maintained its objection and position that its preferred PPs submitted at Deadline 7 [REP7-004] should be included in the DCO. The Applicant confirmed on 13 May 2024 that commercial terms required for the voluntary land agreement had not been agreed and that the CA and TP powers sought were needed to ensure the Proposed Development could be delivered without unnecessary delay or disproportionate cost. The Applicant submitted that the PPs in the dDCO would provide sufficient protection to EDF Energy. The Applicant notes EDF's preferred PPs [REP7-004] and provided a compromise set of PPs at Appendix 1 to its response.
- 6.9. The Secretary of State has had regard to EDF's preferred PPs and the Applicant's compromise set of PPs and the ExA's consideration during Examination. The Secretary of State has decided to adopt the Applicant's PPs with some modifications.

*Network Rail Infrastructure Limited ("NRIL")*

- 6.10. NRIL confirmed on 13 May 2024 that a commercial agreement had been agreed with the Applicant and documents were being prepared for signature. NRIL confirmed on 17 May 2024 that PPs had been agreed and the Applicant would be writing to request the agreed form of PPs be included in the Order. NRIL confirmed its objection was withdrawn. The Applicant confirmed the agreement of PPs and provided the PPs by letter on 13 May 2024.
- 6.11. The Secretary of State has made the agreed amendments to the DCO.



### *Trent Valley Internal Drainage Board (“TVIDB”)*

- 6.12. TVIDB replied by email on 13 May 2024 that PPs has not been agreed, stating TVIDB had been issued with a draft SoCG and issued a pro forma for PPs to the Applicant for consideration. These PPs were returned by the Applicant with substantial proposed redactions and the TVIDB was concerned with regard the proposed removal of wording. TVIDB advised it had sought legal advice to ensure there was no risk to the TVIDB as a result of the Proposed Development if disapplication of powers were agreed. The Applicant responded on 13 May 2024 stating that it had engaged with TVIDB to seek to agree PPs but had not received a substantive response since 3 May 2024, further noting that it had included PPs for the benefit of drainage authorities in the dDCO in standard form which would operate to protect TVIDBs interests and it should be granted on the terms sought by the Applicant.
- 6.13. During Examination, the ExA considered that the PPs as included in the rDCO were reasonable and necessary and provide appropriate protection [ER 6.7.34]. The ExA also notes that TVIDB has not given its consent for the disapplication of s23 of the Land Drainage Act 1991 and retains control under this as the DCO cannot disapply its provisions without its consent [ER 6.7.34]. The Secretary of State agrees and has disapplied s23 only for Upper Witham Internal Drainage Board (“UWIDB”) and amended the PPs so they do not apply to TVIDB.

### *Uniper UK Limited (“Uniper”)*

- 6.14. During the Examination, Uniper provided a bespoke set of PPs to the Applicant on 16 December 2023 which were not agreed in time for the final dDCO at deadline 7 [ER 6.7.36]. The ExA was not provided with these or a statement from Uniper and, in the absence of evidence to the contrary, was satisfied that the Applicant’s standard PPs at Part 1 of Schedule 15 would provide adequate protection to Uniper’s interests and function and there was no reason to preclude these plots from the CA and TP provisions [ER 6.7.37].
- 6.15. Uniper replied by email on 13 May 2024 confirming that discussions were ongoing but PPs had not been agreed. The Applicant had sent an updated draft of the PPs that afternoon and Uniper would review these as a priority. On 16 May 2024 Uniper replied by letter confirming it would still like to reach an agreed position on the PPs and attached its preferred PPs and a comparison with the Applicant’s preferred PPs. Uniper confirmed its view that the Applicant’s preferred form of PPs would cause serious detriment to its undertaking and the DCO should only be granted with Uniper’s preferred PPs. The Applicant replied on 13 May 2024 with a compromise set of PPs, seeking to align with PPs provided by Uniper on 5 March 2024 with amendments considered necessary by the Applicant.
- 6.16. The Secretary of State has had regard to Uniper’s preferred PPs and the Applicant’s compromise set of PPs and the ExA’s consideration during Examination. The Secretary of State has decided to adopt Uniper’s preferred PPs with some modifications.

### *Crown Land*

- 6.17. There is no open space, common land or fuel or field garden allotments included or affected by the Order limits of the Proposed Development, however there is some crown land [ER 6.7.2]. The Crown Estate’s interest arises in respect of the GCC crossing the tidal River Trent [ER 6.7.3]. The Crown Estate confirmed that the Commissioners had reached a separate agreement with the Applicant and confirmed their consent to the CA of the third-party interest

in the plot 13/4 for the purpose of s135(1) of the 2008 Act, subject to the inclusion of Article 49 of the dDCO, amended by their suggestions [ER 6.7.4]. The ExA confirmed that the amendments suggested are included in the dDCO and rDCO [ER 6.7.5].

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

- 6.18. The ExA, having compared the Works Plans, Land Plans, Book of Reference and Schedule of Negotiations and Powers sought, was satisfied that each area of land and plot affected by CA and TP was required for the carrying out of one or more of the works identified in Schedule 1 to the dDCO [ER 6.3.4]. The ExA was satisfied that the Applicant had demonstrated that the land was needed and would be no more than is reasonably required for the Proposed Development and that the land was required either for the Proposed Development (including associated development), to facilitate it or was incidental to it [ER 6.5.19]. The ExA considered, subject to further considerations to plots affected by outstanding objections, the Proposed Development would comply with s122(1) insofar as it also meets s122(2) [ER 6.9.3]. The ExA considered that the need case was adequately made out and any residual harms that arise are outweighed by the benefits of the Proposed Development [ER 6.5.24]. Overall, subject to further consideration of plots affected by outstanding objections, the ExA concluded there was a compelling case in the public interest for the land to be acquired compulsorily, the test set out in s122(3) of the 2008 Act was met and that the case for TP (recognising it is broadly drawn) was also made out [ER 6.5.25]. The Secretary of State agrees and has laid out his consideration of plots affected by outstanding objections above and concludes that the tests in s122 are also met in relation to these plots.
- 6.19. The ExA considered that the Applicant had satisfactorily demonstrated that all reasonable alternatives to CA, including in terms of the layout of the Proposed Development, site selection, cable routing consideration and negotiation for voluntary agreements had been explored [ER 6.5.34]. The Secretary of State agrees.
- 6.20. The ExA considered the Funding Statement [CR1-028] and other information, concluding that the necessary funds would be available to the Applicant to cover the likely costs of CA [ER 6.5.40]. The ExA was satisfied that sufficient funds were available to deal with compensation available from CA and the rDCO provides security through Article 47 for the security of funding [ER 6.9.5]. The Secretary of State agrees.
- 6.21. The ExA concluded the CA powers sought accord with s122(2) and (3) and s123 of the 2008 Act, that the Crown Estate was content with regard to Crown Land, that in all cases relating to individual objections that CA, TP with permanent rights and TP was justified to enable implementation of the Proposed Development and a compelling case in the public interest has been made out [ER 6.10.7]. The ExA concluded that requirements s127(3), s127(6) and s138 of the 2008 Act had been met with regard to SUs [ER 6.10.7]. The Secretary of State agrees and has laid out his consideration of plots affected by outstanding objections above, which also meet the relevant tests.
- 6.22. Overall, the ExA concluded the tests in s122(2) and s122(3) of the 2008 Act are met and recommended acceptance of the CA and TP powers proposed in the rDCO; the conditions in s123(2) and s123(4), s127, s135 and s138 were all met and all the powers for CA and TP were justified [ER 6.10.8]. The Secretary of State agrees.

6.23. With regard to the Human Rights Act 1988, the ExA concluded it was appropriate and proportionate for the Secretary of State to make the Order to include the grant of CA powers sought, noting that the Order strikes a fair balance between the public interest in the Proposed Development and the interference with rights that would be affected [ER 6.10.5]. The ExA concluded the Proposed Development would be compatible with the Human Rights Act 1988 in terms of being a proportionate interference with property and family life [ER 6.10.7]. The Secretary of State agrees and has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

## **7. Secretary of State's Consideration of the Planning Balance, Conclusion and Decision**

7.1. Where NPSs have effect, s104 of the 2008 Act requires the Secretary of State to have regard to a range of policy considerations including the relevant NPSs and marine policy documents, LIRs, prescribed matters and any other matters that the Secretary of State thinks are important and relevant to the decision. Where s104 does not apply, s105 requires the Secretary of State to have regard to LIRs, prescribed matters and any other matters that the Secretary of State considers are important and relevant to the decision.

7.2. As set out above, the Secretary of State concludes, as the ExA did, that there is no NPS in effect in relation to the Proposed Development and the Application can therefore be determined under s105, however, he considers, as the ExA did, that 2011 NPS EN-1 and EN-5 and 2024 NPS EN-1, EN-3 and EN-5 are important and relevant considerations.

7.3. The Secretary of State acknowledges the ExA's recommendation that consent be granted.

7.4. 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:

- Air Quality (neutral weight) [ER 3.3 et seq.];
- Biodiversity, Ecology and the Natural Environment (moderate positive weight for biodiversity net gain, neutral weight in respect of ecology and the natural environment) [ER 3.4 et seq.];
- Historic Environment (moderate negative weight);
- Landscape and Visual (moderate negative weight);
- Major Accidents and Disasters (neutral weight) [ER 3.9 et seq.];
- Noise and Vibration (neutral weight) [ER 3.10 et seq.];
- Traffic and Transport (neutral weight) ER 3.12 et seq.];
- Water Environment (including flooding) (neutral weight) [ER 3.13 et seq.]; and
- Other Matters (neutral weight) [ER 3.14 et seq.].

7.5. The Secretary of State has considered the following issues in further detail and ascribed a different weight to the ExA in respect of the following issues:

- Need, Alternatives and Generating Capacity (great positive weight ascribed by the ExA: substantial positive weight ascribed by the Secretary of State, inclusive of climate change);
- Climate Change (great positive weight ascribed by the ExA: no separate weighting ascribed by the Secretary of State);

- Human Health and Wellbeing (moderate negative weight ascribed by the ExA to impact on GP ratios, neutral weight ascribed to all other impacts; limited negative weight ascribed by the Secretary of State to human health and wellbeing overall); and
  - Socio-Economic and Land Use (including agricultural land and BMV land) (little positive weight ascribed by the ExA to employment benefits, moderate negative weight ascribed to the impact on BMV land, neutral weight ascribed to all other impacts; limited positive weight ascribed by the Secretary of State to employment benefits, moderate negative weight ascribed to the impact on BMV land, neutral weight ascribed to all other impacts).
- 7.6. 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 as being in accordance with NPS policy, subject in some cases 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.
- 7.7. The ExA concluded that the Proposed Development would contribute to and is consistent with, and supportive of, Government policy [ER 8.2.8]. Overall, the ExA concluded that the significant benefits to be gained from the Proposed Development strongly outweighed those matters which weight against the Order being made [ER 8.2.12].
- 7.8. As detailed above, the Secretary of State accords substantial positive weight to the need for the Proposed Development, in agreement with the ExA who note that it is consistent with, and supportive of, the Government addressing climate change, meeting the legal commitment to net zero and ensuring a secure, diverse and affordable energy supply [ER 8.2.8]. The Secretary of State also accords moderate positive weight to biodiversity net gain, and limited positive weight to employment benefits.
- 7.9. As detailed above, the Secretary of State accords moderate negative weight to historic environment, limited negative weight to human health and wellbeing, moderate negative weight to landscape and visual and moderate negative weight to the impact on BMV land.
- 7.10. The Secretary of State has considered and weighed the benefits and harms that have been identified. Although the Secretary of State has reached a different conclusion from the ExA in respect of some of the harms resulting from the Proposed Development, the Secretary of State also concludes that the Proposed Development is in accordance with relevant policy, and that the harms identified in this case, including cumulatively with other solar projects in the locality, are clearly outweighed by the substantial weight that attaches to the provision of urgently needed low-carbon and renewable infrastructure, along with the other identified benefits.
- 7.11. Consequently, the Secretary of State concludes that development consent should be granted for the Gate Burton Energy Park in line with s105 of the 2008 Act. The Secretary of State considers that the national need as set out in the relevant NPSs outweighs the Proposed Development's potential adverse impacts, as mitigated by the proposed terms of the Order.
- 7.12. The Secretary of State has therefore accepted the ExA's recommendation to consent. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant LDPs, the LIRs submitted by WLDC, LCC, NCC and BDC, the

2011 and 2024 NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by s105 of the 2008 Act. 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.

## 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 partnerships<sup>3</sup>; 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.
- 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 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.

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<sup>3</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

## 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.

9.2. The Secretary of State has removed Article 12 ‘use of private roads’ from the draft Order, which had sought to allow the undertaker to use any private roads during construction and maintenance of the authorised development subject to compensation in certain circumstances. The Secretary of State considers any use of ‘private roads’ should be dealt with through the formal process provided through compulsory acquisition or agreement with the landowner.

9.3. The Secretary of State has removed Article 17 ‘removal of human remains’ from the draft Order, which sought to mandate that the Applicant remove and rebury or cremate any human remains from burial grounds within the Order limits. There are no known burial grounds within the Order limits so the Secretary of State considers this article to be unnecessary. Provision for any human remains should be included in the written scheme of investigation, as required by paragraph 11 of Schedule 2.

9.4. The Secretary of State has amended Article 14(5)(c) to ensure adequate notification of the powers under Article 14(1) and Article 14(2).

9.5. The Secretary of State has removed Article 21(2)(c) from the draft Order, which had sought to allow for private rights or restrictive covenants over land subject to compulsory acquisition to cease to have effect on commencement of any activities authorised by the Order which interfere with or breach those rights. The Secretary of State considers this provision to be uncertain and does not agree that rights should be affected before the triggering of one of the formal processes set out in (a) or (b).

9.6. The Secretary of State has amended Article 27(4) to clarify possession must not continue when it is no longer reasonably necessary.

9.7. The Secretary of State has removed Article 35(3)(c) (now Article 33) from the draft Order, which sought to allow the Applicant to transfer the benefit of the Order to a holding company or subsidiary without the consent of the Secretary of State. If the applicant is to transfer the benefit of the Order to a holding company or subsidiary, the Secretary of State would expect that company to be holder of a licence under section 6 of the Electricity Act 1989, and therefore considers this additional exemption from the need for consent to be unnecessary.

9.8. The Secretary of State has removed Article 47 ‘Compulsory acquisition of land – incorporation of the mineral code’ from the draft Order. There is no compulsory acquisition of mining rights so the Secretary of State considers this article to be unnecessary.

9.9. The Secretary of State has amended paragraph 5 of Schedule 2 to the draft Order to ensure that adequate details are secured under the detailed design approval.

- 9.10. The Secretary of State has amended paragraph 7(1) of Schedule 2 to the draft Order to include that Natural England are consulted.
- 9.11. The Secretary of State has amended paragraph 11 of Schedule 2 to the draft Order to include provision for a written scheme of archaeological investigation.
- 9.12. The Secretary of State has amended paragraph 4(1) of Schedule 13 relating to Arbitration Rules to limit the number of pages in a single pleading.
- 9.13. The Secretary of State has amended Article 6 and Part 3 of Schedule 14 to the draft Order relating to protective provisions between the Applicant and UWIDB. This reflects the current position of the two drainage boards and clarifies that s.23 is disappplied for UWIDB and therefore protective provisions only apply to UWIDB. Paragraph 20 is further amended to remove the timeframe of 14 days which prevents UWIDB from seeking further information following any consultation.
- 9.14. The Secretary of State has updated Part 17 of Schedule 14 to the draft Order relating to protective provisions between the Applicant and Uniper. This reflects the protective provisions provided by the Applicant and updated protective provisions provided to the Secretary of State by Uniper after the close of examination.
- 9.15. The Secretary of State has omitted to include the paragraph titled 'Acquisition of land' from the protective provisions provided to the Secretary of State by Uniper in the draft Order. This had required Uniper's agreement to any compulsory acquisition. The Secretary of State considers this should be dealt with through the formal process provided through compulsory acquisition or agreement with Uniper outside of the draft Order.
- 9.16. The Secretary of State has updated Part 15 of Schedule 14 to the draft Order relating to protective provisions between the Applicant and EDF. This reflects the protective provisions provided by the Applicant and updated protective provisions provided to the Secretary of State by EDF after the close of examination.
- 9.17. The Secretary of State has deleted subparagraph 190(1) of Part 15 of Schedule 14 to the draft Order requiring EDF's agreement to any compulsory acquisition. The Secretary of State considers this should be dealt with through the formal process provided through compulsory acquisition or agreement with EDF outside of the draft Order.
- 9.18. The Secretary of State has amended subparagraph 193(12) relating to notice to cease works during certain events. A compromise has been made between the two parties' submitted protective provisions and 28 days has been inserted to ensure adequate notice whilst facilitating delivery of the authorised development.
- 9.19. 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 confirm with the current practice for statutory instruments and changes in the interests of clarity and consistency and to achieve consistency with other DCOs.

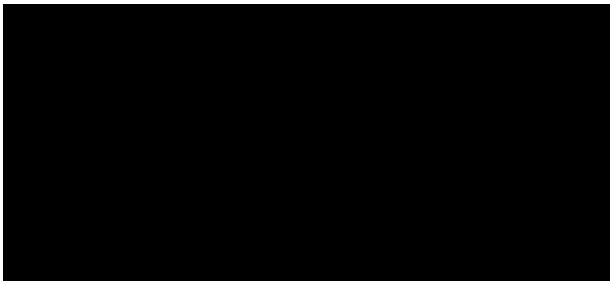
## **10. Challenge to decision**

- 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

- 11.0. 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.
- 11.1. 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

Head of Energy Infrastructure Planning



## **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/EN010131>

**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 Integrity
AGLV	Area of Great Landscape Value
ALC	Agricultural Land Classification
AMS	Archaeological Mitigation Strategy
AP	Affected Person
BDC	Bassetlaw District Council
BDCCS	Bassetlaw District Council Core Strategy
BESS	Battery Energy Storage System
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
CA	Compulsory Acquisition
CCGT	Combined Cycle Gas Turbine
CEMP	Construction Environmental Management Plan
CLLP	Central Lincolnshire Local Plan
CNP	Critical National Priority
CO <sub>2</sub>	Carbon dioxide
COMAH	Control of Major Accidents and Hazards
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DEMP	Decommissioning Environmental Management Plan
EA	The Environment Agency
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
EMF	Electromagnetic Field
EEA	European Economic Area
ES	Environmental Statement
ExQ	Examiners Questions
ExA	The Examining Authority
fCEMP	Framework Construction Environmental Management Plan
GCC	Grid Connection Corridor
GHG	Greenhouse gases
GW	Gigawatt
ha	hectares
HE	Historic England
HRA	Habitats Regulations Assessment
HUDU	Healthy Urban Development Unit
ICNIRP	International Commission on Non-Ionising Radiation Protection
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest

ISH	Issue Specific Hearing
km	kilometre
kV	kilovolt
kWh	kilowatt hour
LCA	Landscape Character Area
LCC	Lincolnshire County Council
LDP	Local Development Plan
LEMP	Landscape and Ecological Management Plan
LIR	Local Impact Report
LLCA	Local Landscape Character Area
LSE	Likely Significant Effect
L VIA	Landscape and Visual Impact Assessment
MSA	Mineral Safeguarding Area
MW	Megawatt
MWh	Megawatt hour
NCC	Nottinghamshire County Council
NE	Natural England
NNRWLP	Nottinghamshire and Nottingham Replacement Waste Local Plan
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NRIL	Network Rail Infrastructure Limited
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
OCEMP	Outline Construction Environmental Mitigation Plan
ODP	Outline Design Plans
OEMP	Outline Environmental Management Plan
OLEMP	Outline Landscape and Ecological Management Plan
OSSCEP	Outline Skills, Supply Chain and Employment Plan
PP	Protective Provisions
PPG	Planning Policy Guidance
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
PV	Photovoltaic
R	Requirement
rDCO	Recommended Development Consent Order
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SMP	Soil Management Plan
SNCB	Statutory Nature Conservation Body
SoCG	Statement of Common Ground
SPA	Special Protection Area
SRN	Strategic Road Network
SU	Statutory Undertaker

t	tonne
The 2008 Act	The Planning Act 2008
The TCPA 1990	The Town and Country Planning Act 1990
TCPA	Town and Country Planning Act
TP	Temporary Possession
TWh	Terawatt hour
TVIDB	Trent Valley Internal Drainage Board
UWIDB	Upper Witham Internal Drainage Board
UKHSA	United Kingdom Health Security Agency
WHIASU	Wales Health Impact Assessment Support Unit
WLDC	West Lindsey District Council
WMS	Written Ministerial Statement
WR	Written Representations
WSI	Written Scheme of Investigation
Zol	Zone of Influence
ZTV	Zone of Theoretical Visibility