

**Longfield Solar Farm
Essex County Council (ECC)**

Unique reference: 20031541

Deadline 8: ECC's Response to ExA's request for further information

ExQ	Respondent	Question	Essex County Council response
Applicant's Proposed Amendment to Article 6(4)			
Q1.	Essex County Council	<p>In its Deadline 7 response, the Applicant has proposed an amendment to Article 6(4) of the dDCO [REP7-006 and REP7-007 (tracked changes version)].</p> <p>Further commentary/justification for this amendment is included in the Applicant's comments on the submissions received at Deadline 6 [REP7-005] (see pages 8 and 9). The Explanatory Memorandum [REP7-008 and REP7-009 (tracked changes version)] has also been updated to reflect the proposed changes.</p> <p>All IPs are invited to comment on the proposed amendment. In view of their previous comments on this Article, responses are specifically requested from Braintree District Council and Essex County Council.</p>	<p>Document Reference: EN010118/EX/24 - Applicant's Responses to Earlier Submissions and Responses to Rule 17 Requests includes the following position statement issued by Essex County Council in its capacity as the Minerals and Waste Planning Authority (MWPA) in relation to Article 6(4) of the emerging DCO.</p> <p><i>The MWPA cannot accept Article 6 (4). The MWPA cannot support, in principle, an application for non-mineral development conflicting with an extant mineral planning permission. Any negotiation will need to be with the holder of the permission which then may result in a revised scheme being put before the MWPA for its consideration. This is considered to be the only way that the MWPA's objection in principle could be resolved by the MWPA. As a planning authority, it is not understood how the MWPA could in effect either revoke or otherwise not respect the primacy of an extant permission when operations are being carried out in compliance with that planning permission.</i></p> <p>The response to this position provided by the Applicant does not act to change the position of the MWPA and therefore the current position remains extant, even though the wording of Article 6(4) has since been amended.</p> <p>In the first instance, it is important to note that the MWPA's response has been misinterpreted by the Applicant. The Applicant states that 'The comments from Essex County Council as the minerals authority suggest it is not possible to disapply or otherwise affect the Park Farm Planning Permission under the DCO.' The response then goes on to set out the provisions of the Planning Act 2008 under which a DCO can impact on an extant planning permission and provides examples of where this has occurred. The</p>

			<p>MWPA clarifies that in its response, it sets out that the MWPA does not understand how it, as in the MWPA itself, can in effect revoke or otherwise not respect the primacy of an extant permission issued by itself when operations are being carried out in compliance with that planning permission. The MWPA accepts the Applicant's position that the Secretary of State has the powers to disapply or amend existing planning permissions as part of granting permission for a DCO but this is not the same thing. The assumed requirement for the MWPA to respect the primacy of the permissions it has granted leads to the in-principle objection to any application which would compromise the ability of the permitted development to work in accordance with its planning permission. This is in accordance with Policy S8 of the Essex Minerals Local Plan which states that 'Proposals which would unnecessarily sterilise mineral resources or conflict with the effective workings of permitted minerals development, Preferred or Reserve Mineral Site allocation shall be opposed.' (relevant section underlined). The MWPA has already clarified that its objection is not one of sterilising the resource per se, but one of sterilising a resource which already has planning permission to extract, as the DCO would conflict with the effective working of a permitted development. The position that the MWPA therefore needs to take is clearly set out in Policy S8. The MWPA accepts that it would not be practical to extract the relevant parcel of land in isolation and therefore its sterilisation would have been acceptable as part of the planning balance should the Park Farm permission not exist. However, as permitted mineral, the mineral bearing land subject to the DCO is currently included in the County landbank.</p> <p>The MWPA notes that Article 6(4) of the DCO is intended to be amended as follows:</p> <p>"As from the date on which the permitted preliminary works are carried out or the authorised development is commenced, whichever is the earlier, any conditions of the Park Farm planning permission that relate to the land at plot 1/2C cease to have effect to the extent that they are inconsistent with the authorised development or with anything done or approved under Schedule 2 (requirements)."</p> <p>The Applicant states that 'The potential inconsistency between the Proposed Scheme and the Park Farm planning permission at plot 1/2C relates to whether conditions attaching to the permission can be complied with, in particular to carry out the development in</p>
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DCO Update			
Q2.	Essex County Council/Braintree District Council	<p>In Table 2.1 of the Applicant's comments on submissions received for Deadline 6 [REP7-005], the Applicant notes that ECC and BDC have accepted the Applicant's responses on a number of points including:</p> <ul style="list-style-type: none"> • Part 1, Preliminary – Definition of Maintain • Article 10 • Article 12(c) • Requirement 7(1) and 22(1) • Requirement 15 • Requirement 16 • Requirement 17 	<p>To confirm, Table 2.1 of the Applicant's comments on submissions received for Deadline 6 [REP7-005], is correct. Essex County Council and Braintree District Council have accepted the Applicant's responses to the following:</p> <ul style="list-style-type: none"> • Part 1, Preliminary – Definition of Maintain • Article 10 • Article 12(c) • Requirement 7(1) and 22(1) • Requirement 15 • Requirement 16 • Requirement 17 • Requirements 19 and 28 • Requirement 26 <p>The Final SoCG (Appendix 1) has been updated accordingly for Deadline 8 to reflect this correct and final position of both Council's for the above listed matters.</p>

		<ul style="list-style-type: none">• Requirements 19 and 28• Requirement 26 <p>However, I note that the SoCG submitted at Deadline 7 [REP7-025] indicates that some of these matters are still under discussion.</p> <p>BDC and ECC are requested to provide an update on their respective positions on these provisions.</p>	
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