

# Stonestreet Green Solar

## Responses to Deadline 5 Submissions

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# 1 Introduction

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## 1.1 Purpose of the Report

- 1.1.1 This report provides the Applicant's responses to submissions from Interested Parties received at Deadline 5 in respect of the proposed Stonestreet Green Solar project (the Project).

## 1.2 Structure

- 1.2.1 Section 1 of this report sets out the purpose, structure and approach taken in the report.
- 1.2.2 Section 2 provides the Applicant's responses to the Interested Parties' submissions made at Deadline 5.

## 1.3 Approach

- 1.3.1 A total of 5 submissions were made by Interested Parties at Deadline 5. These were submitted by:
- Ashford Borough Council [[REF5-029](#)]
  - Aldington and Bonnington Parish Council [[REF5-030](#)]
  - Aldington & Mersham Support Group [[REF5-031](#)]
  - Andrew David Swarbrick [[REF5-031](#)]
  - Dr Patricia Bromley [[REF5-033](#)]
- 1.3.2 This report does not seek to duplicate the Applicant's responses to the previous submissions at Deadlines 1 [[REP1-061](#)], 2 [[REP2-034](#)], 3 [[REP3-046](#)], 4 [[REP4-029](#)], and 5 [[REF5-023](#)] or **Responses to First Written Questions (Doc Ref. 8.11)** [[REP3-047](#)] and **Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)** [[REP5-024](#)]. Where appropriate to avoid repetition the Applicant has sought to cross-refer back to responses provided in those documents, supplemented by additional information that has been entered into the Examination since those documents were prepared.



## 2 Response to Deadline 5 Submissions

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### 2.1 Overview

2.1.1 This section of the report contains responses to the Deadline 5 submissions made by the following parties:

- Ashford Borough Council [[REF5-029](#)]
- Aldington and Bonnington Parish Council [[REF5-030](#)]
- Aldington & Mersham Support Group [[REF5-031](#)]
- Andrew David Swarbrick [[REF5-031](#)]
- Dr Patricia Bromley [[REF5-033](#)]



## 2.2 Responses to ABC Deadline 5 Submission

Table 2-1 Responses to ABC Deadline 5 Submission

Ref	Summary of Interested Party's Comments	Applicant's Response
<i>BMV Land</i>		
ExQ2 3.02	ABC notes that the use of BMV Land and the degree of impact on BMV Land is a matter of agreement between the Applicant and Natural England. ABC agree that the proposed use of the land would not have a material impact on the nation's food security and the use of BMV would have a neutral local impact. This position will be captured in the Statement of Common Ground to be submitted at D5.	This matter of agreement is included in the updated <b>Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))</b> .
<i>PRoW Survey Results</i>		
ExQ2 5.02	<p>ABC defers to KCC's response to this question in their role as Highway Authority, albeit ABC do not agree with the Applicant's assertion.</p> <p>Much of the PRoW network in this location comprises historic routes that link parishes, farmsteads and churches and their level of use and importance to the local community is reflected in the volume of Relevant Representations submitted by local residents and supported by ABC.</p>	Please refer to the Applicant's responses to ExQ5.0.2 in Table 2-6 of the <b>Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)</b> [ <a href="#">REP5-024</a> ].



## 2.3 Responses to ABPC Deadline 5 Submission

Table 2-2 Responses to ABPC Deadline 5 Submission

Ref	Summary of Interested Party's Comments	Applicant's Response
<i>dDCO - The wording of 'maintain'</i>		
2-6	<p>We are extremely concerned that the definition of "maintain" (Article 2 of the (d)DCO) continues to be written in such a way as to go well beyond the scope of what is necessary in this scheme and similar schemes.</p> <p>We refer to our Deadline 4 Submission, published on 13 March 2025. This set out that the Applicant's argument that the definition of 'maintain' currently being used has clear precedent in other solar DCOs (e.g. <i>Cleve Hill Solar Park Order 2020 and the Little Crow Solar Park Order 2022</i>) is an outdated approach. More recent solar DCOs (e.g. <i>The Longfield Solar Farm Order 2023 and The Mallard Pass Solar Farm Order 2024</i>) have debated the scope of the definition of 'maintain' and the Inspector has concluded that a more refined definition is required to avoid unintended consequences on how all aspects of the site are maintained in a way that would not cause materially new or materially different environmental effects to those identified in the Environmental Statement.</p> <p>Definition in the Longfield Solar DCO: "maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole</p>	<p>Please refer to the "<i>Definition of 'maintain'</i>" row in the <b>Response to Additional Submission made at Procedural Deadline A (Doc Ref. 8.1)</b> <a href="#">[REP1-060]</a>, paragraph 1.5.19 of <b>Written summary of Oral Submissions at Issue Specific Hearing 1 and Responses to Action Points (Doc Ref. 8.5.3)</b> <a href="#">[REP1-073]</a> and row 6.2 in Table 4-2 in Section 43 of the <b>Response to Deadline 1 Submission (Doc Ref. 8.8)</b> <a href="#">[REP2-034]</a>.</p>



Ref	Summary of Interested Party's Comments	Applicant's Response
	<p>of, the authorised development and “maintenance” and “maintaining” are to be construed accordingly.”</p> <p>Definition in the Mallard Pass Solar DCO: “maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development (but not remove, reconstruct or replace the whole of Work No. 1 at the same time), to the extent that such works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement for the operation of the authorised development and “maintenance” and “maintaining” are to be construed accordingly.”</p> <p>We respectfully request the Inspector to require the definition of the word ‘maintain’ in the dDCO to be redrafted in line with the more recent precedents, which would go some way to minimising the negative impacts of the scheme and reassuring the community that there is some control over the powers granted by way of the DCO.</p>	

## 2.4 Responses to AMSG Deadline 5 Submission

Table 2-3 Responses to AMSG Deadline 5 Submission

Ref	Summary of Interested Party's Comments	Applicant's Response
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### BMV Land



Ref	Summary of Interested Party's Comments	Applicant's Response
Page 1	<p>With reference to the Examiner's Questions 3.01 to 3.04 (PD-008) regarding BMV land we would like to provide the following observations:</p> <ul style="list-style-type: none"> <li>• Using the data from the Applicant's soil analysis report (APP-122) 20.3% of the DCO limits is made up of BMV land.</li> <li>• 68% of the BMV land within the DCO limits is located on the Aldington Ridge as defined by the 58m elevation contour (see plan in submission).</li> <li>• If the land above 58m were excluded from the scheme, the percentage of BMV land utilised would reduce to 8%, with the overall area of the project reduced from 187 to 149 hectares.</li> <li>• With regards to the location of structures on BMV land, there are five battery enclosures and one water tower located on BMV land (see plan in submission).</li> <li>• In addition, 1.2 km of grass-crete roadways will be built across BMV land to access the battery enclosures, which given their construction should be considered structures.</li> <li>• As outlined in our submission for Deadline 1 (REP1-109), the Applicant has missed the opportunity to design a scheme that by excluding land above 58m would not only preserve BMV land, but also significantly reduce visual impact, preserve important heritage assets along Roman Road and critical Skylark habitats.</li> </ul>	<p>As stated in <b>ES Volume 4, Appendix 16.1: Soils and Agricultural Land Report (Doc Ref. 5.4(A))</b> <a href="#">[REP5-013]</a>, it is accurate that the total area of BMV land within Site is 38.64 ha (i.e. 20.3%) and this represents 0.12% of all BMV agricultural land within Ashford.</p> <p>As stated in paragraph 2.2.2 of the <b>Planning Statement (Doc Ref. 7.6)</b> <a href="#">[APP-151]</a>, the Project has sought to maximise the use of poorer quality agricultural land, with approximately 80% of the land within the Site having been assessed as being ALC Grade 3b or non-agricultural land.</p> <p>The overall impacts from the Project to BMV agricultural land are limited, as agreed with Natural England within the <b>Signed Statement of Common Ground with Natural England (Doc Ref. 8.3.7(C))</b> <a href="#">[REP4-021]</a>.</p> <p>Please refer Table 4-2 at page 170 and page 183 of the <b>Responses to Deadline 1 Submissions (Doc Ref. 8.8)</b> <a href="#">[REP2-034]</a> for further responses on this matter.</p>



Ref	Summary of Interested Party's Comments	Applicant's Response
<i>Biodiversity</i>		
Page 3	<ul style="list-style-type: none"> <li>We remain bemused by the written response from the Applicant about the mitigation it is offering in respect of Skylark.</li> <li>Nowhere does it respond to our request for example solar schemes where the 16 m<sup>2</sup> plots have been monitored and found to be successful in maintaining numbers. Instead, it hides behind the RSPB's words - <i>"This minimum size is based on available advice from the Royal Society for the Protection of Birds ('RSPB'), Rural Payments and Natural England in relation to skylark plots on arable cropland"</i> which do not relate to any solar scheme.</li> <li>Even the Applicant seems to recognise that these plots are inadequate when it states that <i>"Other measures include the provision of open grassland areas (without PV arrays) to provide extensive suitable habitat for skylark nesting and foraging"</i>. Almost certainly it is alluding to fields 26 –29 removed on account of flooding. Reference to its own illustrative plans shows this as a low-lying wetland habitat, enclosed by woodland and boundary trees. Its advisers should know that on account of predation risk alone this is not suitable habitat for Skylark.</li> <li>The Applicant's closing remark on Skylark is - <i>"The detailed LEMP(s) will provide further details on the monitoring required to critically</i></li> </ul>	<p><b>Appendix 1: Skylark Mitigation and Management Strategy</b> of the <b>Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))</b> sets out the management and mitigation strategy with respect to skylarks.</p> <p>Section 4 of the strategy explains that provision of skylark plots should be seen as supplementary and secondary to the provision of alternative open space. The Project therefore proposes a package of mitigation measures across the Site for the loss of skylark nesting habitat as far as possible within the operational requirements.</p> <p>Section 5 of the strategy sets out an adaptive approach to monitoring and management that is secured through the <b>Outline LEMP (Doc Ref. 7.10(B)) [REP3-020]</b>. The Applicant is not aware of other sizing guidance relevant to skylark plots other than that published by the RSPB.</p> <p>The Applicant has always been open about the potential significant effects on skylark. Table 9.15 of <b>ES Volume 2, Chapter 9: Biodiversity (Doc Ref. 5.2) [APP-033]</b> states that the residual effect after mitigation during operation is Local adverse (significant).</p> <p>The approach to skylark mitigation and management has been agreed with Kent County Council's ('KCC's') Ecology Officer as confirmed in the <b>Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))</b>.</p>



Ref	Summary of Interested Party's Comments	Applicant's Response
	<p><i>assess whether the approach proves successful and to inform changes in site management regime, if needed".</i></p> <ul style="list-style-type: none"> <li>• What are the chances, if monitoring shows that the 16 m<sup>2</sup> plots are woefully inadequate, that the then owner of the site will remove panels to make further space for Skylark nesting and foraging?</li> <li>• What can the Statement of Common Ground with KCC offer if despite a recommendation for an increased area for Skylark the Applicant refuses?</li> <li>• Why was the Applicant not open about the significant effects the proposal will have on this Red List species rather than trying to maintain that mitigation was going to work?</li> </ul>	
<b>DCO</b>		
Pages 3-4	<ul style="list-style-type: none"> <li>• We are concerned that the points we and ABPC (through their Counsel originally) have raised in relation to the definition of the word "maintain" within the Draft DCO (version 6) at REP 4-004 have still not been picked up by the Exa, nor yet addressed by the Applicant.</li> <li>• Contained within the Mallard Pass Report we find the same concerns about the definition of this word discussed at length. Notably the Exa says - <i>"We consider that the Applicant's position on the need for panel replacement has</i></li> </ul>	<p>Please refer to the "<i>Definition of "maintain"</i>" row in the <b>Response to Additional Submission made at Procedural Deadline A (Doc Ref. 8.1)</b> <a href="#">[REP1-060]</a>, paragraph 1.5.19 of <b>Written summary of Oral Submissions at Issue Specific Hearing 1 and Responses to Action Points (Doc Ref. 8.5.3)</b> <a href="#">[REP1-073]</a> and row 6.2 in Table 4-2 in Section 43 of the <b>Response to Deadline 1 Submissions (Doc Ref. 8.8)</b> <a href="#">[REP2-034]</a>.</p>



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	<p><i>not been entirely clear during the Examination. Nevertheless, we are satisfied that with the relevant controls in place which are secured by the draft DCO, the likely maintenance activities including replacement panels would not result in any significant adverse effects..... Although the wording 'not to replace the whole of Work No.1 at the same time' begs questions of the implications of replacing, for example, 90% of the panels at any one time, the controls that have been added do provide what we consider to be appropriate certainty that the effects cannot not exceed those reported in the ES, concluding that there would be no significant effects during operation. We do not therefore recommend any further changes to the definition of 'maintain'. ..... We note that any future proposal to carry out wholesale or even substantial replacement of panels at any one time, which exceed the controls put in place and secured by the draft DCO, would require future consideration and further approval".</i></p> <ul style="list-style-type: none"> <li>• We say the fact that the Exa in Mallard Pass came to this conclusion about the definition of the word "maintain" was because he felt it addressed so far as reasonably possible what would constitute "<i>wholesale or even substantial replacement of panels at anyone time</i>".</li> <li>• It follows surely that the definition of the word "maintain" - as it appears in the Mallard Pass</li> </ul>	



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	<p>Order 2024 - should be adopted in full for this DCO, if granted. That wording is as follows (emphasis ours):</p> <p><i>“Maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development (but not to remove or reconstruct or replace the whole of Work No 1 at the same time) to the extent that such works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement for the operation of the authorised development and “maintenance” and “maintaining” are to be construed accordingly”.</i></p>	

### Financial Statement

Pages 4-5	<ul style="list-style-type: none"> <li>At REP4 – 032 we note that Mr Flanagan elected to make no comment at all in response to the last item at para 1.1.4 - <i>“Financial standing of the Applicant”</i> despite at least one of the Applicant's directors being present on the Appellant's Panel at OFH2.</li> <li>The IP (Mr O'Driscoll), amongst a range of concerns made the case that the Applicant should be required to secure a financial Bond. This to ensure compliance with the DEMP in the event of some incapacity or refusal of the then lessee and/or landowner(s).</li> </ul>	<p>Please refer to the response to Q4.0.2 on pages 12 to 14 of the <b>Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)</b> [<a href="#">REP5-024</a>].</p>
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Ref	Summary of Interested Party's Comments	Applicant's Response
	<ul style="list-style-type: none"> <li>• The response by Mr Flanagan at REP 4- 030 suggesting that it is enough for such inaction to be regarded as a "criminal offence" is of little assistance if the then owner is declared bankrupt, is registered outside the UK's jurisdiction or for any other reason claims to be unable or is unwilling to carry out the necessary works.</li> <li>• As Mr O'Driscoll stated, the requirement for a Bond is a standard requirement where a temporary consent is granted for mineral extraction to ensure the land is restored (as is required here) to agricultural use.</li> <li>• We say that it is not enough for Mr Flanagan to hide behind the provisions of NPS EN-3 when he quotes paragraphs 2.10.65 - 2.10.69. Clearly the NPS of late in 2023 did not envisage the prospect of a field scale solar development that involved much more than just solar panels.</li> <li>• This scheme uniquely includes well over 100 batteries, inverters, water tanks and more than 7 kilometres of grass-crete roadways the decommissioning of which (and the reinstatement of all the land to agricultural use) will be a very substantial technical and costly operation.</li> <li>• We see no reason why a condition requiring the securing of a Bond should not be included. This mechanism allows county planning authorities to guarantee compliance with restoration</li> </ul>	



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	<p>requirements. We say that just because the issue has been avoided in previous cases this does not mean that it is necessarily the right decision. We hope the Exa, who has after all raised the issue himself, will agree with us and insist on this provision and a better reason for the Applicant's refusal.</p>	
<b>BESS</b>		
<p>Pages 5-6</p>	<ul style="list-style-type: none"> <li>At the ISH4 on BESS, the barrister for the Applicant stated that "Kent Fire and Rescue confirmed in writing that they had no objection to the scheme, provided it conformed with the National Fire Chiefs Council's guidelines". This written confirmation and other correspondence with KFRS do not appear in the Examination Library. Given the significant Public Health Risk associated with BESS, the absence of KFRS and the Applicant's expert at the ISH4 and the need for complete transparency, we believe that this situation should be rectified as soon as possible.</li> <li>Further to our submission for deadline 4, the failure of the KFRS representative and the Applicant's expert to attend ISH4 remains of significant concern to the community and we do not believe that all of the issues around battery safety have been adequately examined. We remain particularly concerned about the volumes of water available to cool a battery fire, the impact of toxic plumes on neighbouring</li> </ul>	<p>If Kent Fire and Rescue Service had concerns regarding the Project then it is reasonable to assume these would have been raised. In the context of planning, non-objection indicates they are content with what is proposed. The Applicant has also consulted with the Environment Agency and KCC (in its role as LLFA) in relation to the approach to firewater impacts in the unlikely event of a fire occurring. The position had been agreed with both parties via their respective Statements of Common Ground (please refer to the <b>Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))</b> and the <b>Statement of Common Ground with the Environment Agency (Doc Ref 8.4.2(C))</b> <a href="#">[REP4-015]</a>).</p> <p>Ashford Borough Council ('ABC'), the local authority, also confirmed in its <b>Local Impact Report</b> <a href="#">[REP1-078]</a> that the Project will have a neutral impact in relation to major accidents and disasters. As such, the Applicant considers that any relevant matters related to BESS have been adequately examined.</p> <p>Please refer to Table 2-9 of the <b>Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)</b> <a href="#">[REP5-024]</a> which provides responses to the ExA's questions on BESS, including in respect of water capacity which the Applicant confirms will be provided on-Site in line with NFCC Guidance.</p>



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	<p>residential properties and the volume of containment for contaminated fire water (REP4-057 and REP4-037).</p> <ul style="list-style-type: none"> <li>• The NFCC guidance for fire and rescue services relating to Grid Scale Battery Energy Storage System Planning states that <i>“hydrant supplies for boundary cooling purposes ..... should be capable of delivering <b>no less than</b> 1,900 litres per minute for <b>at least</b> 2 hours (emphasis ours). Fire and rescue services may wish to increase this requirement dependant on location and their ability to bring supplementary supplies to the site in a timely fashion”</i>. With reference to the Exa’s Q8.04 (<b>PD-008</b>) regarding water capacity, it is evident that as demonstrated by the recent fire at Handen Farm, that there are limited supplies of water available from local hydrants and there is significant difficulty in transporting large volumes of water to the site. As a consequence, surely much larger volumes of water need to be stored on site. Given the NFCC guidance regarding supplementary supplies, we suggest that Q8.04 also be addressed to the Applicant.</li> <li>• In the context of other BESS schemes, KFRS advise that “Past BESS incidents, both within the UK and abroad, must be considered and all efforts made to ensure safe practices both during daily use and emergency response, for workers, emergency service personnel and the public alike”. The BESS fire on Merseyside in</li> </ul>	



Ref	Summary of Interested Party's Comments	Applicant's Response
	<p>2020 used an estimated 6 million litres of water, compared to the 228,000 litres the Applicant plans to make available at Stonestreet Green (for each of the 26 battery enclosures). The Applicant has not demonstrated how it has used this information and that from other BESS incidents to inform its decision on the volumes of water it proposes to provide to cool and manage a BESS fire. We therefore believe that the Applicant should be asked this question.</p>	
<b>PROW</b>		
Page 6	<ul style="list-style-type: none"> <li>We anticipate that Mr Andrew Swarbrick and both KCC and ABC will be responding on matters relating to PROW.</li> <li>We have made representations previously on PROW and will only add here that the assertion by the Applicant that there is "limited connectivity between the two villages" only serves to illustrate the lack of understanding it still has about the PROW network.</li> <li>The plan in the submission illustrates the network of long-established definitive footpaths that connect the two parishes. It was the even greater connectivity that would be afforded by the provision of another cycle/riding route that both communities were seeking in respect of which the Applicant has talked much and done little.</li> </ul>	<p>The Applicant's comment that "<i>there is limited connectivity between the villages</i>" is evidenced by the fact that the Applicant's PROW user survey shows the local PROW network is relatively lightly used and offers primarily recreational routes.</p> <p>It is not a statement that denies the existence of footpaths "between the two parishes" – and the Applicant has considered origin and destination when assessing the options for diversions on those links including AE 370 and AE 377, which as assessed in <b>ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))</b> <a href="#">[REP1-024]</a> do not result in significant adverse connectivity effects.</p> <p><b>ES Volume 3, Figure 13.3: PROW Survey Results - Daily PROW Trips (Doc Ref. 5.3)</b> <a href="#">[APP-056]</a> shows the total PROW trips per day in graphical form. The full survey results are provided in <b>ES Volume 4, Appendix 13.6: PROW User Survey Results (Doc Ref. 5.4)</b> <a href="#">[APP-112]</a>. Paragraph 13.5.50 of <b>Chapter 13: Traffic and Access (Doc Ref. 5.2(D))</b> <a href="#">[REP3-012]</a> summarises the results.</p>



Ref	Summary of Interested Party's Comments	Applicant's Response
		<p>Fewer than 10 one-way trips per day were observed at six of the eight survey locations across the 7.5-day survey period with a number of locations not recording any usage during the survey period.</p> <p>In response to community requests for an offroad cycling route the Applicant has offered to make a financial contribution to the delivery of a cycle route between Aldington and Mersham, subject to appropriate landowner agreements and securing land permissions outside of the Order limits.</p> <p>AE 370 is the logical route of a proposed cycle route, linking the two villages and the Applicant has sought to design this route by minimising turns as a key consideration in its proposed diversion.</p>



## 2.5 Responses to Andrew David Swarbrick Deadline 5 Submission

Table 2-4 Responses to Andrew David Swarbrick Deadline 5 Submission

Ref	Summary of Interested Party's Comments	Applicant's Response
<i>PRoW Consultation</i>		
Page 1	<p>I am a member of Ramblers – the national charity which promotes walking and countryside access because I am a keen walker and PRoW user. I am an active member of the largest of 13 Ramblers Groups in Kent, namely White Cliffs Ramblers, for whom I am a volunteer walk leader. I am only indirectly connected to Kent Ramblers, and as I do not hold any post at Kent Ramblers, I do not represent Kent Ramblers though, of course, I support the aims of Ramblers nationally and locally as do Kent Ramblers.</p> <p>My concerns regarding the issue of Public Rights of Way in the area covered by the Stonestreet Green Solar Project arise from my having lived in Aldington for over 40 years and been a regular user of the ProWs in the area for most of this time.</p> <p>My concerns in regard to the Project in fact pre-date the involvement of Kent Ramblers and I have always made it clear that I have been acting as a concerned local resident. Indeed, I attended the first Local Information Event (Non-statutory Consultation) in Aldington on 9th April 2022, having received a copy of the March 2022 Community Information Leaflet and on that occasion spoke in person to Mr McNally about my concerns. When I</p>	<p>The Applicant has met with Mr Swarbrick on multiple occasions both prior to and post submission of the DCO Application. This included Mr Swarbrick's attendance at five of the six Community Liaison Panel ('CLP') meetings to which he was invited to attend.</p> <p>Mr Swarbrick's attendance at these meetings may not have been formally as a representative of Kent Ramblers but he confirms he is a member of Ramblers and the Applicant would note his contribution throughout the process has primarily been in relation to the impact of the Project on the PRoW network.</p> <p>The Applicant agrees with Mr Swarbrick's recollection of the 11 August 2022 CLP meeting relating to its commitment to meet with NS [Nigel Spencer], being the representative of Kent Ramblers, once a position was progressed with KCC (as local highways authority) as documented in the agreed minutes of that meeting.</p> <p>A number of discussions with KCC were held following this meeting resulting in a number of changes to the PRoW proposals.</p> <p>The Applicant further notes Mr Spencer's request, as documented by the minutes of the 15 June 2023 CLP meeting, for an in-person session with EPL to go through the PRoW changes.</p> <p>The Applicant confirms that this in-person meeting with Mr Spencer took place at the Sellindge consultation event on 23 June 2023 and therefore Mr Swarbrick is incorrect to state such a meeting did not take place.</p>



Ref	Summary of Interested Party's Comments	Applicant's Response
	<p>asked him if he knew how many PRowWs there are in the area shaded on the Indicative Location Plan in the leaflet – and displayed at the Event, he said he did not. I handed him a list of the 16 ProWs. I subsequently also asked to be included in the Community Liaison Panel – still acting on my own behalf and not as a representative of Ramblers or any other group.</p> <p>I was not able to attend the inaugural CLP meeting as I had a prior commitment to attend my son's degree ceremony on that date, I attended all the subsequent meetings, including that held on 11th August 2022, the recorded Notes of which include the following:</p> <p>“NS suggested it would be an idea to have a small working group to review the PROWs. AS confirmed there are 16 PROWs on the site and that each one needs to be looked at in detail. CMcN confirmed that once Evolution Power has had the conversation with KCC, he would be happy to sit down with NS and AS.”</p> <p>No such meeting ever took place.</p>	
Pages 1-2	<p>Mr Spencer and I were invited to a preview of the plans at Bank Farm, Aldington, very shortly before the public local information events took place between 4th and 9th November 2022. In fact, Mr Spencer was unable to attend this preview and Mr McNally was not present, but the plans I was shown regarding the ProWs were at that stage incomplete and there was no opportunity to discuss ProWs</p>	<p>Please refer to the first row in Table 3.1 of Section 3.2 of the <b>Responses to Deadline 3 Submissions (Doc Ref. 8.13)</b> [<a href="#">REP4-029</a>].</p> <p>The Applicant considers that the development of PRowW diversions and alternatives has been an iterative process, which has evolved over time to balance a range of different factors and take into account feedback from KCC, ABC, Kent Ramblers, members of the CLP (including Mr Swarbrick) and other interested local parties.</p>



Ref	Summary of Interested Party's Comments	Applicant's Response
	<p>individually. At the public events, however, the plan to divert all the ProWs were displayed as a fait accompli. As has been stated by the Applicant, there has been an iterative process during which some changes were made, but the plan to re-route all the paths around the outside of the Project's Field boundaries and thereby to substantially change – without any meaningful consultation with local residents and PRow users - the directness of several historical routes remains unaltered from the first publication of plans in 2022. No meaningful discussion of alternatives ever took place at any of the CLP meetings – it is spurious to suggest therefore that there was any “consultation” in this respect</p>	<p>Details of the alternatives that have been considered and how the PRow strategy has evolved through public consultation and bilateral engagement are provided in Section 5.7 of <b>ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A))</b> <a href="#">[AS-010]</a>.</p> <p>A detailed summary of how the consultation feedback was considered and presented in the PEIR Addendum leading into the ‘final’ scheme on a route-by-route bases is set out in <b>Appendix 11.1 from the PEIR Addendum</b> which has now been submitted to the examination as <b>Appendix 4 to the Written Summary of Oral Submissions from Issue Specific Hearing 2 and Responses to Action Points (Doc Ref. 8.5.5)</b> <a href="#">[REP1-075]</a>.</p> <p>The Applicant has engaged with residents, community groups and local authorities in the approach to specific PRow.</p> <p>With respect to KCC, the Applicant met on multiple occasions with the Public Rights of Way Officer during the pre-application stage as confirmed by <b>Kent County Council in its Relevant Representation</b> <a href="#">[RR-156]</a> which states:</p> <p><i>“Through the pre application stage of this proposal, <u>the County Council has proactively negotiated with the applicant a PRow Management Strategy (APP-160)</u>, that covers the construction, operational and decommissioning stages. [It goes on...] The proposed site covers a very dense area of the PRow network; the number of PRow that were originally proposed to be extinguished has been reduced to two, and the number of routes to be diverted during the operational stage has been reduced to the minimum.”</i></p>

### PRow Diversion

Page 2	It may be that the reason for the diversions was always to “maximise the efficiency” of the Project –	As evidenced in the Applicant's <b>Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action Points (Doc</b>
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	<p>though I do not recall this ever having been clearly explained until the February Hearing – despite careful reading of the published documents, repeatedly asking for such explanation throughout the consultation periods and at the Community Liaison Panel meetings and, indeed, it was clearly stated at the Issue Specific Hearing that no consideration had been given to calculating the effect of accommodating direct paths as other developers have done.</p> <p>Instead, over this period, the applicant appeared to seek to minimise, obscure or to suggest that the proposed changes were somehow an improvement to the ProW network.</p>	<p><b>Ref. 8.14.1) [REP4-030]</b> , the Applicant has not stated that “no consideration had been given to calculating the effect of accommodating direct paths as other developers have done”.</p> <p>The Applicant’s approach has been to deliver a renewable energy project that is considered by policy to be a critical national priority, whilst seeking to minimise any impact on the PRow network and ensuring the proposals are in full compliance with all the National Policy Statement requirements - primarily <b>NPS EN-1 (para 5.11.30) and NPS EN-3 (paras 2.10.40 - 2.10.45)</b>. These policies broadly recognise and accept that solar projects may affect existing PRowS and encourage applicants to design project layouts to ensure continued recreational use is possible, to minimise visual impacts, to consider opportunities to enhance the PRow network and to detail how PRow would be managed to ensure they are safe to use, in a Public Rights of Way management plan. The Applicant considers its approach is entirely consistent with policy as detailed in the <b>Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action Points (Doc Ref. 8.14.1) [REP4-030]</b> at Action Point 3 (see page 39 onwards) on maximising the generating capacity of the Project and Action Point 9 (see page 49) on minimising visual impacts on users of PRowS.</p>

### *PRow – Public Enjoyment and Heritage Impact*

Page 2	<p>Mr Flanagan points out that the current Application is being made under the terms of the Planning Act 2008 and not the Highways Act 1980. I am fully aware of this and, in fact acknowledged it to be the case in an earlier submission. I am aware that the Planning Act 2008 provides the power to extinguish a Public Right of Way if the decision-maker is satisfied that— (a) an alternative right of way has</p>	<p>Potential impacts on connectivity are set out within <b>ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B)) [REP1-024]</b>. The Applicant has used a conservative methodology and no significant effects have been identified.</p> <p>The Applicant also notes that KCC has reviewed this assessment and has not disagreed with the results. It is further noted that KCC explicitly confirmed at Issue Specific Hearing 3 (see the <b>Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action</b></p>
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	<p>been or will be provided, or (b) the provision of an alternative right of way is not required.</p> <p>Unlike Mr Flanagan, I am not a lawyer, but on reading the provisions of these Acts, I cannot find a reference to the Highways Act Section 119 having been modified or repealed by the Planning Act, however, as I previously stated, my purpose in mentioning the earlier Act is intended as a measure of reasonableness – not a claim that it is a legal clause. As such, I believe that although the PA 2008 requires the decision maker to be satisfied that an alternative has been provided or is not required, it would be unreasonable – and surely can't have been the intention - for such an alternative to be substantially less convenient and to be harmful to the users' enjoyment of the path overall.</p> <p>Mr Humphrey disagreed with the KCC assessment of the overall impact of the proposed Project as being unfounded and claimed that the average length of the proposed diversion is only 18% and so judges them to be of only minor adverse effect. I have already pointed out that it is meaningless to refer to an average length when some diversion routes will be considerably longer than this. I note, however, that Mr Humphrey thereby appears, however, to accept that some measure of reasonableness of the diversions is appropriate and that one test of this is the additional length of an alternative path. Other arguments put forward by the Applicant's representatives suggest that the</p>	<p><b>Points (Doc Ref. 8.14.1) [REP4-030])</b> that PRow connectivity will be maintained post implementation of the proposed diversions. KCC therefore agrees the Project complies with the PRow requirement for this matter in NPS EN-3.</p> <p>As noted above the Applicant considers its proposals are in full compliance with all the requirements of the relevant National Policy Statements.</p>



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	<p>experience of users should be taken into account – witness their claims of “enhancements.”</p> <p>Given that the applicant’s representatives seek to claim that the impact of the proposals is only minor adverse or even insignificant - while relying on assessments they themselves have made regarding the convenience and enjoyment of the ProWs. I do not think it unreasonable to question their judgements by referring to the 1980 Act as regards considerations to be taken into account before making changes to ProWs.</p>	
Pages 2-3	<p>Whilst again being aware that Planning Inspectorate decisions made in previous Inquiries do not constitute a legal precedent, I suggest that they may also provide some relevant parallels.</p> <p>In the Order Decisions made on 20 April 2017 regarding applications to divert four Public Rights of Way at Harrow School, the Inspector considered the effect the proposed diversions and the overall package of proposals would have on the public enjoyment of the paths to be adverse and significant. She agreed that the proposed diversion of historic direct routes would have a significant adverse effect and that the diverted routes would seem purposeless when compared with the existing direct line of the definitive historic routes leading in a straight line towards an obvious historic destination with a clear view of that destination adds considerably to the enjoyment of the route and that</p>	<p>The Applicant cannot provide detailed comment on the specificities of other planning decisions.</p> <p>However, it is noted that in the Harrow School case identified by Mr Swarbrick it appears that significant effects were identified, which is not the case for the assessment of the Project set out within <b>ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))</b> <a href="#">[REP1-024]</a> which has not identified any significant effects.</p> <p>The approach to assessment of socio-economic impacts on the PRoW network has been agreed by KCC in the <b>Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))</b> at matter P.6 PRoW.</p> <p>Furthermore, Section 8.7 of <b>ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))</b> <a href="#">[AS-012]</a> assesses the likely effects to landscape and views of PRoW users, including an assessment of the impacts to the experiential qualities of the impacted PRoWs, which concludes that there are likely to be no effects above ‘moderate adverse’ and several at a ‘moderate to minor’ or ‘minor’ or ‘negligible’ scale on the landscape and visual amenity of PRoW users during the Project’s construction and operation.</p>



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	<p>the straightness is part of the heritage. The orders to make the diversions were therefore not confirmed.</p> <p>I note that objections considered to the proposed diversions were made by a number of local residents as well as a representative of the Open Spaces Society, who also represented a Ramblers Group.</p> <p>The parallels I draw attention to are Evolution Power's proposal which would entail the wholesale diversion or extinguishment of no fewer than sixteen Public Rights of Way which are also demonstrably historic and the detriment this would cause to the directness of a number the paths and consequently to the purposefulness and enjoyment of this part of our heritage.</p> <p>I consider that the Applicant has never shown any understanding or sympathetic consideration of these impacts on the many ProWs but has, from the outset, sought to impose their proposed changes on users and local residents.</p>	<p>KCC and ABC accept the Applicant's assessment of visual effects on PROW users in the <b>Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))</b> (see row 2.8.1) and in the <b>Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))</b> (see row 2.3.9).</p> <p>KCC has also reviewed the mitigation measures proposed in relation to PROW in the <b>Outline RoWAS (Doc Ref. 7.15(A))</b> <a href="#">[REP1-056]</a> and agreed that the effects on PROW have been mitigated as far as reasonably practicable, as set out in in the <b>Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))</b>.</p>

## 2.6 Responses to Dr Patricia Bromley Deadline 5 Submission

Table 2-5 Responses to Dr Patricia Bromley Deadline 5 Submission

Ref	Summary of Interested Party's Comments	Applicant's Response
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**BESS**



Ref	Summary of Interested Party's Comments	Applicant's Response
Page 1	<p>Regarding Qu8.04, there is an error in the question: the recent fire at Handen Farm was not a domestic car battery fire but a house fire which destroyed property entirely. The firefighters who attended for over 16 hours on Jan 18th 2025 to control the blaze, did not have sufficient water to manage a house fire in this location. Despite draining the local mains supply and the lake by the house, Kent fire and rescue had to employ bowzers and close the road to erect a temporary storage pool, to bring water into the village on a constant back and forth basis for many hours. They did this as there were three Tesla batteries in the cellars which formed part of the house's solar power supply (not car batteries!). The firefighters said that if these caught fire they would have to evacuate the area due to toxicity and let them burn out which would take days. On being questioned about the probability of them being able to manage a fire in even one of the 54 battery compound proposed by this scheme, all of the seasoned and highly experienced fire fighters were 100% clear that there was no way, even with water tanks on site, that they would be able to control, let alone extinguish, a battery fire in one of the BESS units in the proposed location. They said that the resulting toxicity would pose a high risk of fatalities in the local area to humans and wildlife.</p>	<p>Please refer to Table 2-9 of the <b>Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)</b> <a href="#">[REP5-024]</a> which provided responses to the matter of fire safety. Please also refer to the updated <b>Outline BSMP (Doc Ref. 7.16(A))</b> <a href="#">[REP5-019]</a> submitted at Deadline 5.</p>