RWE

Tween Bridge Solar Farm

8.16 Written Summary of Oral Submissions at the Issue Specific Hearing 2

Planning Act 2008
Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Document Reference: 8.16

Deadline 3 June 2026

Revision 1

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1 Introduction

1.1. Introduction

1.2. This document summarises the oral submissions made on behalf of RWE Renewables UK Solar and Storage Limited (the Applicant) at the Issue Specific Hearing 2 (ISH2) on 23 June 2026 in relation to the Applicant's application for development consent for the Tween Bridge Solar Farm (Scheme).

1.3. This document does not purport to summarise the oral submissions made by other parties at the ISH2 and references to submissions made by other parties are only included to give context to the Applicant's submissions in response.

1.4. Reflective of the Applicant's confirmation that a detailed response would be provided at Deadline 3, this document also includes post-hearing responses to some matters raised at the ISH2. Where the comment is a post-hearing comment submitted by the Applicant, this is indicated.

1.5. This document uses the headings for each item in the agenda published for ISH2 by the Examining Authority (ExA) on 4 June 2026 [**EV4-001**].

1.6. All references within this written summary to the **Draft DCO** are to Revision 5 **[CR1-006]** unless otherwise stated.

2 Agenda item 1 – Welcome, introductions and arrangements for the Hearing

2.1. The Applicant was represented at ISH2 by Tom McNamara (TM), TLT LLP, Legal Director.

2.2. The following persons who intended to make submissions on behalf of the Applicant during the ISH2 were introduced:

- Katie Stock (KS), Pegasus, Senior Director (Transport);
- Rob Revolta (RR), Tyler Grange, Technical Director (Ecology); and
- Jonathan Millward (JM), Pegasus, Associate Heritage Consultant.

2.3. The following persons who intended to make submissions during the ISH2 on behalf of Interested Parties were introduced:

- Mr Paul Skelton, Ms Louisa Simpson, Ms Emily Study, and Ms Alicia Morley, representing North Lincolnshire Council (NLC); and Mr Emyr Thomas, Mr Andrew Sierakowski, Mr Richard Mudd, Ms Julie Guest, Mr Martin Nowakowski, Mr David Hornsby, and Mr Andrew Lines representing City of Doncaster Council (CDC), together the Councils;
- Dr James Wood representing Lincolnshire Wildlife Trust (LWT);
- Ms Danielle Maclean-Spencer, Ms Annette Hewitson representing the Environment Agency (EA);
- Mr Ross Corser representing National Highways (NH);
- Mr John Carr, a local resident and a person with an interest in the land affected by the Scheme; and
- Mr Michael Brooke, a local resident and a person with an interest in the land affected by the Scheme.

3 Agenda item 2 – Purpose of the Issue Specific Hearing

3.1. The Applicant did not make submissions on this agenda item.

4 Agenda item 3 – Development Consent Order

4.1. The ExA requested that any outstanding areas of disagreement in respect of the Draft DCO should be clearly identified within the draft Statements of Common Ground (SoCGs) with the Councils, and that the Councils provide proposed alternative drafting for the relevant provisions.

4.2. Post-hearing note: The Applicant noted this request and will ensure that future iterations of the SoCGs with the Councils, from Deadline 4 onwards to the close of Examination, include an appended schedule identifying any outstanding drafting disagreements in respect of the Draft DCO, together with the parties' respective positions.

Consideration of Article 2(1)

4.3. The ExA sought clarification on the definition of "permitted preliminary works". In particular, the ExA queried the interaction between Article 2(1) of, and Schedule 2 to, the Draft DCO, noting that certain Requirements require the prior approval of management plans, but that such approvals would not be engaged prior to the carrying out of permitted preliminary works. The ExA further sought clarification in relation to Requirement 9, noting that it is the only Requirement which expressly requires approval of details prior to the carrying out of permitted preliminary works.

4.4. The ExA identified a number of potential implications arising from this approach to drafting, namely that:

(a) site clearance and vegetation removal could take place in advance of approval of the Construction Environmental Management Plan (CEMP) and Landscape Ecological Management Plan (LEMP);

(b) archaeological works, including site clearance and topsoil stripping, could be undertaken prior to the approval of a written scheme of investigation; and

(c) in the context of flood risk, there is no equivalent carve-out within Requirement 11 to ensure that permitted preliminary works do not increase flood risk elsewhere or take place within Flood Zone 3.

4.5. In response, TM sought to respond to the ExA's concerns in three parts.

4.6. First, in relation to archaeology, TM explained that Requirement 12(5) of the Draft DCO provides that "commence" includes permitted preliminary works which involve intrusive archaeological surveys (including trenching) and other investigations for the purpose of assessing ground conditions (including the making or boreholes). Accordingly, the requirement for an approved written scheme of investigation would still be engaged prior to the carrying out of such works. This sits alongside, and is additional to, the specific control provided by Requirement 9.

4.7. Second, TM explained that the drafting reflects a well-established principle within DCOs that a limited category of low-impact, preliminary activities may be undertaken without triggering all pre-commencement Requirements. These works are narrowly defined and low-level in scale and impact. TM emphasised that a degree of flexibility is necessary to enable early activities to proceed without the

need to discharge all Requirements in advance. TM further explained that, by virtue of the drafting of Schedule 1, any ancillary works, which would encompass the permitted preliminary works, are subject to the proviso that they are "*unlikely to give rise to any materially new or materially different environmental effects to those assessed in the environmental statement*". Accordingly, the exercise of permitted preliminary works remains constrained by the parameters and assessment set out in the Environmental Statement (ES), and such works cannot give rise to materially new or materially different effects.

4.8. Third, TM confirmed that, notwithstanding the carve-out from the definition of "commence", the Applicant's intention is to carry out such works in accordance with the spirit of the relevant outline management plans, and to be guided by the controls which will ultimately be approved by the discharging authority. TM noted that this approach is widely precedented within DCO drafting and strikes an appropriate balance between flexibility and environmental safeguards.

4.9. The ExA further queried if the Applicant is satisfied that there is sufficient control in order to avoid adverse effects during the construction period particularly given that the Scheme is in close proximity to designated European sites and functionally linked land.

4.10. TM confirmed that the Applicant was satisfied that this was the case and emphasised that no works are proposed within the geographical extent of any European sites and would, in addition, be subject to the requirement previously cited that the effects of any such works must be consistent with the environmental effects assessed and reported in the ES.

4.11. Mr Thomas on behalf of CDC noted that the Order had been accepted on the basis that permitted preliminary works would be limited to de minimis activities, but expressed concern that the powers as drafted were insufficiently constrained. CDC referred to a number of made DCOs (including The National Grid (Bramford to Twinstead Reinforcement) Order 2024, Fenwick Solar Farm Order 2026, and National Grid (Sea Link) Order and National Grid (Norwich to Tilbury) Order, still in examination), highlighting the approach adopted in those Orders to carve-outs from the definition of commencement. CDC requested clarification as to where the activities comprising permitted preliminary works had been assessed or otherwise identified within the Environmental Statement.

4.12. Action 1: The Applicant agreed to review each Requirement within the Draft DCO, having regard to relevant precedent, and will consider whether any further refinements to the carve-outs from commencement are necessary. The Applicant also agreed to signpost to CDC where the relevant permitted preliminary works have been considered within the Environmental Statement.

4.13. Post-hearing note: The Applicant is reviewing the Requirements within Schedule 2 to the Draft DCO to consider whether any refinements to the exceptions from the definition of "commence" are necessary in the context of any specific requirements. The Applicant will, if appropriate, submit amendments to the Draft DCO at Deadline 4. However, the Applicant has at Deadline 3 made an amendment to Requirement 14 of the Draft DCO in respect of the construction environmental management plan (CEMP). This is addressed further at Action 2 below.

In respect of how the permitted preliminary works have been considered within the Environmental Statement, the Environmental Statement adopts a three-phase assessment structure, for construction, operation (including maintenance) and decommissioning, and assumes that all enabling and early works are captured within the construction phase. Accordingly, the effects of preliminary works are inherent in the construction phase assessment. For example, Environmental Statement Chapter 2: Scheme Description [APP-039], paragraph 2.6.33 confirms that embedded mitigation and habitat creation are assumed to be delivered during construction. The Applicant considers this approach robust and notes that it is precedented in many recently made solar DCOs, including Springwell Solar Farm Order 2026 and Fenwick Solar Farm Order 2026. Notwithstanding this position, as noted above, the Applicant will carry out a review of the Requirements in Schedule 2 to consider whether any more exceptions from the definition of "commence" are considered appropriate.

4.14. The ExA drew attention to the **EA's Relevant Representation [RR-009]**, which raised concerns regarding the inclusion of remedial works for contamination within the definition of "permitted preliminary works".

4.15. TM confirmed that this issue would be considered as part of the Applicant's review under Action 1. TM indicated that the Applicant would consider whether amendments to Requirement 14 in respect of the CEMP should be proposed to

ensure that approval of the CEMP is secured prior to the carrying out of any remedial works, such that appropriate controls and mitigation measures are in place.

4.16. The EA made submissions on this point and outlined its preferred approach. The ExA queried the nature of the risks associated with permitting remedial contamination works to proceed in advance of CEMP approval. In response, the EA explained that the current drafting could allow remediation to take place before ground contamination risk assessments have been approved, notwithstanding that such matters are identified in the ES as being addressed through the CEMP.

4.17. TM responded that, in principle, the Applicant would be willing to amend Requirement 14 of the Draft DCO to remove remedial works in respect of contamination from the list of permitted preliminary works, thereby ensuring that the CEMP is approved prior to the commencement of any such works.

4.18. Action 2: the Applicant agreed to make necessary amendments to the Draft DCO and/or the CEMP to alleviate the EA's concerns in respect of remedial works for contamination.

4.19. Post-hearing note: In the Draft DCO submitted at Deadline 3, [Document Reference 3.1 Revision 6], the Applicant has amended Requirement 14 of Schedule 2 (Construction environmental management plan) to clarify that the term "commence" does not include any remedial works in respect of contamination. The effect of this amendment is that the commencement of any such works, in relation to any phase, would be subject to the requirement to have a CEMP for that phase approved by the relevant planning authority. Under the terms of Requirement 14, the Applicant would be required to consult with the Environment Agency on the proposed CEMP (insofar as relevant to the Environment Agency's functions), prior to its submission to the relevant planning authority for approval.

4.20. The Applicant notes that the proposed amendment to Requirement 14 in the Draft DCO at Deadline 3 has been shared with the Environment Agency through the SoCG ahead of Deadline 3. The updated version of the SoCG [Document Reference 9.3 Revision 2] submitted at Deadline 3 reflects this.

Article 8 (Consent to transfer benefit of the Order) of the Draft DCO

4.21. The ExA explained the purpose of Article 8 and queried how liability would be addressed in circumstances where the undertaker exercised its powers under Article 8 in order to split the transfer of responsibilities (for example, to transfer the benefit of the BESS to a separate party but retain responsibility for operation of the generating station). In particular, the ExA sought clarification as to how, in such circumstances, the Draft DCO would establish responsibility for compliance with site-wide Requirements in Schedule 2, and which party would be liable in the event of a breach.

4.22. TM explained that Article 8(9)(c) of the Draft DCO provides that where the undertaker transfers the benefit of any provision of the Order, the transferee is subject to the same restrictions, liabilities and obligations as would apply to the undertaker in exercising those rights. TM further clarified that any part of the authorised development retained by the undertaker would remain subject to the same obligations.

4.23. The ExA further queried how liability would be determined in practice, expressing concern that, in the event of a breach of a Requirement, there may be a risk of parties seeking to avoid responsibility.

4.24. In response, TM explained that liability would be determined on the facts of each case, having regard to the nature of the breach and the scope of the relevant transfer. TM noted that, depending on the circumstances, liability could rest with one or more parties.

4.25. Action 3: The Applicant agreed to consider this issue further, including reviewing relevant precedent from other made Orders in respect of the allocation of liability in comparable circumstances.

4.26. Post-hearing note: The Applicant has considered this issue further, including a review of recently made solar DCOs. The Applicant notes that the approach in article 8(9)(c) of the draft DCO, which provides that any transferee is subject to the same restrictions, liabilities and obligations as would apply to the undertaker in exercising those rights, is consistent with drafting in a number of recent Orders, including, for example, article 36(8)(c) of the Springwell Solar Farm Order 2026, article 36(9)(c) of the Fenwick Solar Farm Order 2026, and article 6(9)(c) of the Helios Renewable Energy Project Order 2025. The Applicant has not identified any specific drafting within these Orders which is germane to the issues raised by the ExA.

The Applicant further notes that article 8(8) of the draft DCO provides an additional procedural safeguard, requiring the undertaker to provide the relevant planning authority with a copy of any decision of the Secretary of State approving a transfer or grant, or any notification of such a transfer or grant, as soon as reasonably practicable following its issue. This ensures that the relevant planning authority is kept informed of the identity of any transferee and the timing and scope of any transfer, thereby facilitating the identification of the appropriate party in any investigation or enforcement action and assisting in determining liability on the facts of the case.

The Applicant also draws attention to section 167 of the Planning Act 2008 (power to require information), which was also raised on behalf of CDC at ISH2. This provision applies where it appears to the relevant local planning authority that an offence under section 160 (development without development consent) or section 161 (breach of terms of an order granting development consent) may have been committed, and enables the authority to serve an information notice on the owner or occupier of the land, or on any person carrying out operations on or using the land.

As set out in oral submissions at the hearing, the Applicant submits that, in circumstances where the benefit of the Order has been transferred or granted to a third party, including circumstances where the benefit and/or responsibility for the authorised development may be split between the undertaker and one or more transferees, liability would fall to be determined on the facts of the particular case. Relevant considerations would include: (i) the application of article 8(9)(c), which imposes corresponding obligations on any transferee; (ii) the scope of the transfer and the extent to which any breach falls within that scope; and (iii) the availability of enforcement powers to the local planning authority, including the service of notices in respect of any offence.

4.27. The ExA also drew attention to Article 8(3), noting that it expands the circumstances in which a transfer of benefit may occur without the need for prior written consent of the Secretary of State. The ExA compared this to the approach taken in recently made solar DCOs, including Tillbridge Solar Order 2025 (article 36) and Gate Burton Energy Park Order 2024 (article 7), which limit such automatic transfers to entities holding an electricity generation or transmission licence under section 6 of the Electricity Act 1989. The ExA expressed concern that

Article 8(3)(b) of the Draft DCO introduces a broader exemption and observed that DCOs typically constrain such provisions due to associated funding and control considerations. The ExA invited the Applicant's response on this point.

4.28. In response, TM referred to the Applicant's **Written Responses to ExQ1 [REP2-087]**, in particular response to Question 5.1.2, which explains that the purpose of this provision is to provide a limited degree of commercial flexibility as to which entity within the corporate group brings forward the authorised development. TM noted that there is precedent for this approach, including Article 6 of the Byers Gill Solar Order 2025 and Article 35 of the Cottam Solar Project Order 2024. TM explained that the principal safeguard in respect of funding is provided by Article 47, which requires that any party seeking to exercise compulsory acquisition powers under the Order must have in place a guarantee in a form approved by the Secretary of State. TM confirmed that this safeguard would apply equally to any transferee, and that Article 8(9)(c) ensures that transferees are subject to the same obligations and liabilities as the undertaker.

Part 3 of the Draft DCO – Streets

Application of the local permit scheme

4.29. The ExA noted that the Councils had raised concerns regarding the drafting of the relevant street works provisions in the Draft DCO, including discrepancies when compared with recently made solar DCOs, such as Fenwick Solar Farm Order 2026. In particular, the ExA highlighted the absence of provisions equivalent to Article 9 of the Fenwick Solar Farm Order, which provides for the application of a permit scheme, and invited the Applicant to explain this position.

4.30. TM explained that the Applicant has been actively engaging with CDC on the application of the permit scheme and is considering what amendments to the Draft DCO may be necessary to secure compliance with the same. TM noted that, in the absence of an operative permit scheme, the relevant provisions of the New Roads and Street Works Act 1991 (NRSWA) would apply to street works undertaken pursuant to Article 12 of the Draft DCO. These include requirements to provide notice of works and other controls which enable the highway authority to coordinate works. TM acknowledged that, whilst the Fenwick Solar Farm Order demonstrates that permit schemes can be incorporated where appropriate, there are also numerous made DCOs which do not provide for permit schemes. TM

confirmed that discussions with CDC are ongoing and that the Applicant intends to update the Draft DCO at Deadline 4 to address this issue.

4.31. Action 4: The Applicant agreed to update the Draft DCO at Deadline 4 to provide for the application of the relevant local permit scheme, aligned with the structure and provisions contained within Part 3 of the Draft DCO.

Application of CDC's Highways agreement

4.32. The ExA queried why the Draft DCO should not be subject to a highways agreement with the Council.

4.33. TM explained that the Applicant was less amenable to the idea of the Draft DCO enshrining the Council's proposed highways agreement. TM said this is because a Development Consent Order, as a statutory instrument, is capable of incorporating provisions equivalent to those typically secured through a section 278 or similar highways agreement. TM referred to the "one-stop-shop" principle of the NSIP regime and explained that the Applicant's position is that it would be inappropriate to secure statutory authority for works through the DCO and then require further approval via a separate agreement, thereby duplicating controls.

4.34. TM submitted that any relevant provisions ordinarily secured through a highways agreement could instead be incorporated within the Draft DCO. The Applicant's intention is therefore to consolidate all necessary consents and controls within the framework of the Order. TM further noted that, under Schedule 2, the local planning authority retains oversight of key control documents and design measures. For example, Requirement 6 requires detailed design approval in respect of vehicular means of access from the Councils, and the Construction Traffic Management Plan (CTMP) under Requirement 16 also requires prior approval from the local highway authority. TM submitted that these mechanisms provide sufficient control such that a separate highways agreement is not required.

4.35. TM also referred to Recommendation 28 of the Nuclear Taskforce Report, which supports the "one-stop-shop" approach to DCO drafting, and noted that the Government has indicated its intention to implement the Taskforce's recommendations. TM submitted that this provides relevant emerging policy context supporting the Applicant's approach. TM concluded that, whilst the Applicant is willing to move towards incorporating the permit scheme, it is more resistant to the inclusion of a highways agreement for the reasons submitted.

4.36. In response to further queries from the ExA, TM confirmed that the Applicant is reviewing the draft highways agreement provided by the Council to identify whether any of its provisions could be incorporated into the Draft DCO (or related control documents), with the aim of avoiding the need for additional consents outside the DCO. TM also noted that, notwithstanding the Fenwick Solar Farm Order precedent, the identification of specific highways agreements in DCO drafting is not widely established, including other made solar DCOs. TM confirmed that the Applicant remains open to incorporating additional provisions from the highways agreement within the Draft DCO to the extent that these issues are not already addressed within the articles of the Draft DCO and were appropriate and proportionate.

4.37. TM made two further submissions in respect of the controls already embedded within the Draft DCO:

(a) Requirement 6 (Detailed Design Approval): TM explained that this Requirement goes to the core purpose typically served by a section 278 agreement, in that it requires approval of detailed design by the relevant planning authority prior to commencement of the authorised development;

(b) Street works powers and controls within the Articles: TM referred to Article 13, noting that Article 13(1) limits the undertaker's ability to alter the layout of streets to those identified in Schedule 5, thereby constraining the scope of the power. While Article 13(2) provides a more general power in respect of streets connected with the authorised development, Article 13(4) requires the prior consent of the street authority for the exercise of that power, with such consent able to be given subject to reasonable conditions. TM explained that this approach reflects the wider structure of the street works provisions within the Draft DCO.

4.38. TM submitted that, taken together, the Articles and the Requirements provide two distinct layers of control (through both the operative provisions and the Schedule-based approvals), ensuring that the Local Planning Authority retains appropriate oversight.

Agreements with street authorities Article

4.39. CDC made submissions on the issue of a highways agreement, noting that the Draft DCO submitted with the Application [**APP-016**] included Article 18 (Agreements

with street authorities), but that this provision had been removed in the Deadline 1 version of the **Draft DCO** [**REP1-004**]. The ExA queried the reason for its removal.

4.40. TM explained that this provision was increasingly being omitted from more recently made Orders. TM clarified that the Applicant was not suggesting that it would not enter into agreements with relevant authorities where appropriate. TM confirmed that the Applicant would address this point further in its post-hearing submissions, including by providing examples of recent DCOs where such a provision is not included.

4.41. The ExA observed that any agreement with the highway authority would, in any event, be voluntary. TM agreed, noting that there remains a general ability to enter into agreements, but distinguished this from the approach taken in the Fenwick Solar Farm Order 2026 (Article 12(3)), which imposes a mandatory requirement on the undertaker to enter into a highways agreement. TM noted that the former Article 18 provided that the undertaker "may enter into" agreements, whereas the Fenwick Solar Farm Order drafting in Article 12(3) requires that it "must" do so. TM submitted that such mandatory, contract-based obligations do not sit comfortably within the DCO framework. TM reiterated that the Applicant does not consider it necessary to include such a provision in the Draft DCO, and that where specific controls are required by the Council, the Applicant would consider incorporating these within the Order itself or within the relevant management plans.

4.42. The ExA requested that both the Council's and the Applicant's respective positions on the permit scheme and the highways agreement be set out clearly in writing following ISH2. TM confirmed that the Applicant would address this in its written summary of oral submissions.

4.43. The ExA separately noted that updated drafting will be required by Deadline 4 in order to inform the ExA's comments on the Draft DCO, which are expected to be issued in August.

4.44. Action 5: The Applicant agreed to identify relevant precedent in respect of the omission of provisions relating to agreements with street authorities and will set out, in writing, its position on both the permit scheme and the proposed highways agreement.

4.45. Post-hearing note: Please see the Applicant's position in respect of the requests from CDC regarding the permit scheme and the highways agreement, as follows.

Permit scheme:

Without repeating the Applicant's oral submissions in full, this matter remains the subject of ongoing discussion with CDC. The Applicant understands that the CDC permit scheme requires road spaces to be booked where works or other operations affecting the highway are proposed. The Applicant considers that this is in general a reasonable mechanism to enable CDC to manage its network efficiently and consistently.

However, the Applicant is carefully considering how the permit scheme would interact with the existing controls secured by the Order. In particular:

4.45.1. the provisions of the New Roads and Street Works Act 1991, which already regulate the timing and notification of works; and

4.45.2. the Requirements of the draft DCO, including the Outline Construction Traffic Management Plan [REP2-072].

The Applicant is therefore seeking to ensure that any provision relating to the permit scheme does not duplicate or conflict with these established controls.

As noted under Action 4, the Applicant will continue discussions with CDC, and any consequential amendments to the Draft DCO will, where appropriate, be submitted at Deadline 4.

Highways Agreement:

As set out in the Applicant's oral submissions at ISH2, the Applicant has reservations about the inclusion within the Draft DCO of provisions requiring entry into a separate highways agreement governing street works. These reservations can be summarised by the following reasons.

There is a fundamental distinction between:

4.45.3. the use of section 278 agreements in cases where development is authorised by planning permission under the Town and Country Planning Act 1990; and

4.45.4. development authorised by a DCO under the Planning Act 2008.

A DCO is capable of making provision for the construction and maintenance of highway works within the Order itself, whereas planning permission is not. The approach advanced by CDC would therefore import into the DCO regime a mechanism designed for a different consenting framework.

This gives rise to two principal concerns. Firstly, the "one-stop-shop" principle. A central objective of the Planning Act 2008 is to minimise the need for separate consents by consolidating them within a single authorising instrument. Requiring the undertaker to secure a separate highways agreement post-consent risks undermining that principle. Second, duplication of controls. The Draft DCO already provides for the delivery of the proposed highway works, which are identified in the Order and shown on the relevant plans. Requiring a further agreement risks duplicating controls and undermining the purpose of including those works within the DCO in the first instance.

The draft DCO already contains a comprehensive and proportionate framework for the control of highway works and their impacts, including:

4.45.5. the provisions of Part 3 of the Order;

4.45.6. the oCTMP [REP2-077], which is subject to approval by the highways authority; and

4.45.7. Requirement 6, which prevents commencement of each phase until detailed design (including access arrangements) has been approved by the relevant planning authority.

These mechanisms ensure that the highways authority retains an effective and central role in the approval of detailed design and delivery.

The Applicant emphasises that it does not suggest that inclusion of highway works within the Draft DCO removes the role of the highways authority; rather, the DCO secures that role through a structured and well-established consenting framework.

With a view to progressing discussions, the Applicant has requested and received a copy of the framework highways agreement contemplated by CDC, which is currently under review.

The Applicant's review is focused on identifying whether that agreement addresses matters which are not already regulated by the Draft DCO. The Applicant remains willing to engage constructively with CDC and, where appropriate, to incorporate specific provisions into the Draft DCO or the oCTMP, or make amendments to the Draft DCO provided that such changes do not duplicate or conflict with controls already secured and are otherwise reasonable and proportionate in scope.

In terms of precedent, the Applicant has reviewed recently consented solar Orders and notes that the approach adopted in article 16(3) of the Fenwick Solar Farm Order 2026, which requires entry into an agreement substantially in accordance with a framework highways agreement appears to be an isolated example in the context of solar DCOs. The Applicant is not aware of any consistent or established practice requiring such provisions in solar Orders more generally.

Accordingly, the Applicant submits that the Fenwick approach should not be treated as representing standard or typical practice, particularly in light of the underlying purpose of the DCO regime.

To conclude on the Applicant's position: the Applicant remains willing to continue constructive engagement with CDC. However, its position is that any agreement or additional mechanism should complement, rather than duplicate or cut across, the DCO framework and be consistent with the overarching objective of addressing all relevant matters within a single statutory instrument insofar as reasonably practicable.

Timeframes for the discharge of requirements

4.46. The ExA sought clarification on the Applicant's responses to Questions 5.2.4 and 5.2.9 of the **Written Responses to ExQ1 [REP2-087]**, in particular the Applicant's proposed approach whereby consultation with relevant bodies is undertaken in advance of submitting an application to the local planning authority for the discharge of a requirement.

4.47. TM made submissions in two parts.

4.47.1. First, TM explained that pre-application consultation is intended to improve the quality of submissions made to the local planning authority and reduce the need for iterative engagement post-submission, thereby assisting the authority in its consideration of discharge applications. TM submitted that this is a pragmatic and efficient approach and noted that no objections to this methodology had been raised to date.

4.47.2. Second, TM referred to Part 2 of Schedule 2 of the Draft DCO (Procedure for discharge of Requirements), noting that paragraph 2 (Further information regarding requirements) enables the local planning authority to request such further information as it considers necessary to determine an application, and that paragraph 1(1) of Part 2, provides an eight-week determination period.

4.48. The ExA queried how the process would operate where consultees raise issues or request additional information, given that the consultation period is limited to 21 days.

4.49. TM explained that any such matters could be addressed within the eight-week determination period. TM emphasised that, unlike other DCOs where consultation must take place within that eight-week window, the Applicant's approach allows consultation to occur in advance, thereby providing additional time overall for issues to be identified and resolved.

4.50. The ExA expressed concern that there is no express provision within the Draft DCO for the Council to undertake consultation during the eight-week determination period. TM acknowledged and confirmed that the Applicant would consider whether any amendments to the drafting are necessary. TM reiterated the Applicant's position that, where effective pre-application consultation has been undertaken, there should be a reduced need for further consultation during the determination period.

4.51. TM confirmed that the Applicant would consider this further, including:

(a) whether the 21-day consultation period for relevant bodies is sufficient, or whether it should be extended; and

(b) whether amendments are required to the provisions governing the supply of further information and any associated extensions to the determination timeframe, in discussion with CDC.

4.52. NH queried whether it would have sight of discharge applications submitted to the Council, in order to verify that its consultation responses had been accurately reflected.

4.53. TM confirmed that applications for discharge would include a consultation report (as provided for under Requirement 22), and indicated that the Applicant would consider whether the drafting should be amended to ensure that consultees are provided with copies of discharge applications.

4.54. Action 6: The Applicant agreed to consider whether amendments are required to Requirement 22 to provide for extensions of time. The Applicant will also consider whether Requirement 22 should be amended to require that the consultation summary report includes details of how the consultation responses have been taken into account.

4.55. Post-hearing note: The Applicant has amended Requirement 22 to amend the consultation period from 21 business days to 28 days. This is to ensure that there is consistency with the DCO drafting recommendations emerging from the Nuclear Regulatory Review 2025, which were endorsed in full by the Prime Minister on 26 November 2025. At Recommendation 28, the Review stated: "Time periods for consultation, decision-making, and notice periods across all provisions should not exceed 28 days…". The drafting of Requirement 22 is therefore now commensurate with this recommendation. The Applicant has also amended the drafting of Requirement 22 to clarify that the summary consultation report must include an explanation of how the undertaker has had regard to consultee representations, in addition to providing copies of those representations. This amendment provides greater transparency as to how consultation responses have informed the development of the submitted details. These amendments are included in the Draft DCO submitted at Deadline 3 [Document Reference 3.1 Revision 6].

Deemed consent under Requirement 1(3) of Schedule 2

4.56. The ExA referred to the Applicant's response to Question 5.2.12 in the **Written Responses to ExQ1 [REP2-087]**, in which the ExA had suggested that the Draft

DCO should include an additional provision providing that deemed consent under paragraph 1(3) of Schedule 2 Part 2, would not apply where an application would give rise to materially new or materially different environmental effects compared to those assessed in the Environmental Statement. The ExA noted that the Applicant had declined to amend the Draft DCO to include these provisions.

4.57. TM submitted that the proposed drafting was not necessary, explaining that the Applicant would not, in any event, submit for approval any details which would give rise to materially new or materially different environmental effects beyond those assessed in the Environmental Statement, as to do so would be unlawful and beyond the parameters of the authorised development for which consent is sought. TM emphasised that the statutory and regulatory framework governing the DCO and EIA regimes already operates to prevent such outcomes.

4.58. TM also distinguished between management plans submitted for approval under the Requirements and the underlying authorised development works, noting that such plans are intended to secure mitigation and control measures and would not themselves give rise to materially new or materially different effects. On that basis, TM maintained that it was unnecessary to replicate these safeguards through the inclusion of additional wording within the deemed consent provisions.

4.59. In response to further questions from the ExA, TM confirmed that all plans and details submitted pursuant to the Requirements must accord with the approved parameter plans and the assessment set out in the Environmental Statement, and that the Applicant could not lawfully submit proposals which depart from those parameters. TM reiterated that the additional safeguard suggested by the ExA was therefore not required.

4.60. Post-hearing note: The Applicant has amended paragraph 1 of Part 2 of Schedule 2 of the DCO which was submitted at Deadline 3 [Document Reference 3.1 Revision 6] in line with the ExA's request under WQ 5.2.12.

The Applicant has amended paragraph 1 of Part 2 of Schedule 2 of the Draft DCO submitted at Deadline 3 [Document Reference 3.1, Revision 6]) in response to the ExA's request under WQ 5.2.12.

In summary, two additional sub-paragraphs (4) and (5) have been included, which:

4.60.1. require any application to discharge a Requirement to be accompanied by a statement confirming whether the subject matter of the application is likely to give rise to materially new or materially different environmental effects compared to those assessed in the Environmental Statement, and, where such effects are identified, to provide information describing those effects; and

4.60.2. provide that, where such an application indicates the potential for materially new or materially different environmental effects, the "deemed discharge" mechanism does not apply.

For the avoidance of doubt, and as set out in the Applicant's oral submissions at ISH2, the Applicant's position remains that these amendments are not strictly necessary. The Applicant considers that the existing framework within the Draft DCO, together with the secured management plans, already provide appropriate control. However, the amendments have been included in response to the Examining Authority's request.

Requirement 11 (Surface and foul water drainage strategy) Schedule 2

4.61. The ExA drew attention to item 16 of **CDC's Local Impact Report [REP1-062]**, which states that Requirement 11 should apply to site preparation works, such that a surface and foul water drainage strategy is approved prior to the commencement of those works.

4.62. TM noted that the Applicant had directed CDC to the **Outline Surface Water Drainage Strategy [REP2-047]**, which forms part of the Flood Risk Assessment. TM explained that the surface water drainage strategy is focused on managing runoff associated with the BESS and substation areas, and that these are the elements of the Scheme in respect of which such controls are relevant. TM confirmed that no foul water drainage to the public sewer is proposed as part of the authorised development.

4.63. TM further explained that, where any site preparation works have the potential to give rise to surface water drainage considerations, an appropriate drainage strategy would be submitted for approval in accordance with the Requirements.

Requirement 14 (Construction environmental management plan) of Schedule 2 in respect of possible contamination and remedial works

4.64. The ExA invited the EA to summarise its position in respect of proposed amendments to Requirement 14. The EA explained that matters relating to land contamination should be addressed through a standalone Requirement, structured as a phased, risk-based process with defined approval stages, rather than being secured through the CEMP. The EA noted that this approach is precedented, including within the Oaklands Farm Solar Park Order 2025 and Sunnica Energy Farm Order 2024.

4.65. The ExA sought the Applicant's view on the EA's proposed approach, having regard to those precedents.

4.66. TM explained that the Applicant does not consider that a separate Requirement is necessary, as contamination risks can be appropriately addressed through the CEMP noting the Applicant's Action 1 already taking this point away.

4.67. In relation to precedent, TM referred to the decision in the Springwell Solar Farm Order 2026, where the Secretary of State did not accept the EA's position and agreed with the Applicant that contamination and remediation matters could be adequately controlled through the CEMP. TM confirmed that the Applicant considers its position to be consistent with that precedent, particularly in circumstances where no specific contamination risks have been identified for the Scheme.

4.68. The ExA sought clarification from the EA as to the extent of any likely significant effects identified within the Environmental Statement. The EA explained that Table 9-16 of **ES Chapter 9 Ground Conditions [APP-046]** identifies potential significant effects on groundwater in the absence of mitigation, arising from identified contamination risks, and notes that further investigation is required.

4.69. In response, TM noted that Table 9-16 presents unmitigated effects and that, with the implementation of the CEMP, significant effects would not arise in practice. Paragraph 9.0.8 of ES Chapter 9 confirmed that "*if the mitigation measures are implemented and adhered to then there should be No Significant Residual Adverse effects to…contaminated land during the construction, operation and decommissioning phases of the Scheme*".

4.70. The EA commented that the circumstances of the Scheme and the Springwell Solar Farm project were different and that contamination is an inherently site-specific point.

4.71. Action 7: The Applicant agreed to review the Springwell Solar Farm DCO and assess its relevance to the Scheme, including identifying any material distinctions in relation to site-specific contamination risks. The Applicant agreed to set out its position in writing, including:

(a) the existing controls within the Draft DCO (including the CEMP) which address contamination; and

(b) why those controls are considered sufficient in the absence of a standalone Requirement or carve in.

4.72. Post-hearing note: The Applicant has reviewed the Springwell Solar Farm Order 2026 and considered its relevance to the Scheme, including whether any material distinctions arise in respect of site-specific contamination risks.

The Applicant does not consider that the approach taken in the Springwell Solar Farm Order is driven by any site-specific assessment of contamination risk. Rather, the Applicant understands the Examining Authority's conclusion in that case to reflect general support for the principle that contamination matters can appropriately be addressed through the CEMP or equivalent control document, rather than necessarily requiring a standalone Requirement.

The approach taken by the Applicant in the Draft DCO is consistent with that principle. As noted above, the Outline Construction Environmental Management Plan [Document Reference 7.1, Revision 4] provides a clear and robust framework for the identification and management of contamination. In particular, Table 5-1 confirms that the CEMP will include:

"*Any potential mitigation measures or remediation works that are determined to be necessary, once an assessment of site investigation results has been completed, will be undertaken.*"

The CEMP would be secured through Requirement 14 of the Draft DCO, which stipulates that post consent, a detailed CEMP substantially in accordance with the Outline CEMP, must be submitted to and approved by the local planning authorities. Accordingly, the Applicant submits that this mechanism is no less legally binding or effective than the inclusion of a standalone Requirement dealing expressly with contamination.

Notwithstanding that position, in response to Action 2 (as explained in the post-hearing note at paragraph 4.18 above), the Applicant has agreed to amend Requirement 14 to make clear that the term "commence" does not include remedial works in respect of contamination.

In light of the above, the Applicant considers that the existing controls within the Draft DCO, comprising Requirement 14 and the Outline CEMP, provide a proportionate and well-established framework for addressing contamination risks. The Applicant therefore maintains that a separate Requirement or specific carve-in is not necessary.

5 Agenda item 4 – Environmental Matters

5.1. Item 4a – Transport and Access

The transport and access effects of the proposed development.

Consideration of sensitive transport links

5.2. The ExA sought clarification on the Applicant's approach to the assessment of transport links in **ES Appendix 12.2: Summary of Sensitive Receptors [APP-112]**, in particular the rationale for the assignment of receptor sensitivity (including the attribution of negligible sensitivity to certain receptors). The ExA requested signposting to where this justification is set out within the application documents.

5.3. KS explained that the categorisation of sensitive receptors is set out in Table 12-7 of **ES Chapter 12: Transport and Access [APP-049]**, which identifies the relevant receptor types and associated sensitivity classifications. KS noted that Appendix 12.2 should be read alongside ES Chapter 12, where the underlying methodology and justification are provided. KS also noted that the receptor sensitivity was determined based upon guidance set out in the Institute of Environmental Management and Assessment "Environmental Assessment of Traffic and Movement" document, as referenced in ES Chapter 12.

5.4. The ExA further requested a more granular, link-by-link explanation of the sensitivity assessments, with particular reference to Link 6, noting that it is close to the threshold for requiring further assessment in respect of HGV movements. The Applicant agreed to review this point and provide additional justification within Appendix 12.2.

5.5. Action 8: The Applicant will update Table in ES Appendix 12.2 (Summary of Sensitive Receptors) [Document Reference 6.3.12.2 Revision 2] to include a link-by-link rationale for the assigned sensitivity classifications and will submit the revised Appendix at Deadline 3.

5.6. Post-hearing note: ES Appendix 12.2 Summary of Sensitive Receptors [Document Reference 6.3.12.2 Revision 2] has been updated and submitted at Deadline 3, to provide a more detailed commentary of the justification behind each link's sensitivity categorisation.

5.7. In response to a follow-up query from the ExA regarding HGV movements on Link 6 (Moor Edges Road), KS explained that Table 12-7 of ES Chapter 12 defines the sensitivity categories relevant to the assessment. KS noted that only links classified as having medium or high sensitivity would fall within the "sensitive" category for the purposes of assessment thresholds. Accordingly, even if the sensitivity of Link 6 were reassessed from negligible to a higher sensitivity (medium or high), the percentage change in HGVs associated with the Scheme would remain at less than 30%, and therefore this would not trigger the need for further assessment.

Consideration of site access and visibility splays

5.8. The ExA referred to Question 13.0.11 on Visibility Splays and queried whether information relating to visibility splays at access points should be assessed within the ES, rather than being confined to the Outline CTMP. The ExA further queried whether mitigation of likely significant effects on road safety is sufficiently addressed in the ES, given the apparent absence of explicit consideration of visibility splays.

5.9. KS explained that the visibility splays shown within the Outline CTMP drawings do not give rise to the need for mitigation, and that no residual effects have been identified in respect of visibility. KS noted, however, that the **ES Appendix 12.1 Transport Statement [APP-111]** or **Chapter 12 [APP-049]** could more clearly articulate the position by explicitly setting out the pre-mitigation effects, even where these are not considered significant, to assist the ExA in its reporting.

5.10. Action 9: The Applicant agreed to update the Transport Statement and/or ES Chapter 12 to set out the pre-mitigation assessment of visibility splays and submit the revised documentation at Deadline 4.

5.11. Post-hearing note: ES Chapter 12: Transport and Access [Document Reference 6.2.12 Revision 2] has been updated and submitted at Deadline 3 to include details of the proposed access arrangements including visibility splays. Figures 3.1 to 3.37 of the Outline CTMP are now also appended to Chapter 12 as Appendix 12.4 Proposed Access Arrangements [Document Reference 6.3.12.4 Revision 1].

5.12. CDC made submissions raising concerns in relation to the appropriateness of visibility splays shown at the access points. In response, KS explained that detailed access arrangement drawings are included within the Outline CTMP, which is secured by Requirement 16 of Schedule 2 to the Draft DCO. KS confirmed that under Action 9, the Applicant would replicate the relevant information within ES Chapter 12 Transport and Access to ensure that it is clearly presented within the environmental assessment.

Consideration of the Scheme's interaction with M180 renewal works

5.13. The ExA requested an update on the interaction between the construction of the Scheme and the planned M180 renewal works, including whether an interface agreement with NH would be required, and whether the renewal works had been considered within the cumulative effects assessment.

5.14. TM referred to the position set out in the **Statement of Common Ground with NH [REP2-097]**, in particular, item 11, confirming that discussions were ongoing in relation to protective provisions for the benefit of NH within Schedule 14 of the Draft DCO. TM explained that the Applicant was considering whether any interaction with the M180 works should be addressed through an interface agreement or whether it could be adequately managed through the **Outline CTMP [REP2-072]**.

5.15. TM further submitted that, based on the anticipated programme for the M180 renewal works, there was unlikely to be temporal overlap with the construction of the Scheme, and therefore those works were not currently considered to fall within the scope of the Applicant's cumulative effects assessment.

5.16. NH reiterated this position, confirming that there was uncertainty in respect of the programme for the M180 renewal works and that NH were currently seeking protective provisions from the Applicant and might consider the need for an interface agreement regarding the M180 works at a later stage.

5.17. Action 10: The Applicant will review whether the M180 renewal works have been appropriately considered within the cumulative effects assessment.

5.18. Post-hearing note: Details of the vehicle movements associated with the Scheme on the M180 between Junction 2 and 3 has been included in Chapter 12: Transport and Access [Document Reference 6.2.12 Revision 2]. This confirms that there will be no more than a one percent increase in flows on this particular link and therefore a negligible magnitude of change which is Not Significant in EIA terms. The Applicant has updated the Outline CTMP [Document Reference 7.7 Revision 3] at Deadline 3 to confirm that the Applicant is willing to continue discussions with NH regarding a potential interface agreement to the extent it proves necessary to do so.

5.19. The ExA requested that the Applicant and NH provide a clear and coordinated position by Deadline 4, and sought further clarification as to how any interface arrangements (whether secured through the CTMP or otherwise) would operate in practice, including how their implementation would be controlled and secured through the Draft DCO.

5.20. TM confirmed that an updated **Outline CTMP [Document Reference 7.7 Revision 3]** will be submitted at Deadline 3, which will clarify the Applicant's intention to enter into an interface agreement with NH, as appropriate, in respect of the M180 renewal works.

5.21. Mr Brooke raised concerns regarding the potential impact of HGV movements on Links 1, 2 and 6. In response, KS explained that Links 1, 2 and 6 in **ES Chapter 12 [Document Reference 6.2.12 Revision 2]** comprise the construction traffic route to Land Parcel A, and that HGV flows on each link remain below the relevant 10% threshold, such that no further detailed assessment is required.

5.22. KS further confirmed, in response to a query from the ExA, that the **Sensitivity Test Report [REP2-091]** does not alter these conclusions, as the ES assumes a worst-case scenario in which all land parcels are constructed concurrently, and therefore no materially different traffic effects arise.

5.23. Item 4b – Biodiversity and Ecology

The effect of the proposed development on biodiversity and ecology, including its effect on designated sites and protected species.

5.24. The ExA drew attention to paragraphs 9.5–9.14 of **CDC's Local Impact Report [REP1-062]** and queried whether appropriate mitigation measures have been proposed in respect of nightjar.

5.25. CDC made further submissions building on its Local Impact Report and confirmed that they were satisfied with the majority of the detail provided, but requested that further detail be provided regarding connectivity and foraging habitat for nightjar within the Order Limits.

5.26. TM referred to the **Outline Landscape Ecological Management Plan (LEMP) [CR1-021]**, noting that a detailed LEMP would be submitted for approval post-consent. TM confirmed that this would provide the Council with appropriate control over the final mitigation and habitat proposals.

5.27. RR confirmed that this matter had been the subject of ongoing engagement with Natural England, including the provision of plans showing increased buffers to the Special Protection Area (SPA) and the ditch network, alongside mitigation measures intended to enhance invertebrate prey for nightjar. RR confirmed that the Applicant would send the updated plans showing the buffers to be provided to the SPA to the Councils ahead of Deadline 4 and would also provide further detail on opportunities for nightjar across the Order Limits. RR also confirmed that no night-time working was proposed during the nightjar breeding season, thereby avoiding lighting impacts. It was noted that Natural England would provide formal comments by Deadline 3 and that discussions to date had been positive. The Applicant noted that it would update the **Outline LEMP [CR1-021]**, **Report to Inform Habitat Regulations Assessment [REP2-010]**, and associated documents at Deadline 4 where necessary following receipt of Natural England's comments.

5.28. The ExA also referred to paragraphs 9.15–9.19 of CDC's Local Impact Report in relation to skylark mitigation and sought clarification on the Council's position given that specific mitigation had not yet been proposed.

5.29. CDC made further submissions expanding on its Local Impact Report and confirmed that the county wide approach on the issue of skylark mitigation linked with large solar array projects referred to in their Local Impact Report, was not yet ready for adoption. CDC confirmed that they were broadly satisfied with the approach provided by the Applicant with regard to skylark mitigation and that they would welcome further detail on the habitat provision to be provided for the

benefit of skylark and how this would take into account vertical features and any other constraints.

5.30. RR explained that the proposed skylark mitigation had considered the habitat requirements of skylark and taken into consideration the presence of vertical features. RR confirmed that more detailed plans could be provided to illustrate this.

5.31. **Action 11: The Applicant agreed that it will share the nightjar buffer plan with the Councils ahead of Deadline 3 and will create skylark mitigation plans for Deadline 4.**

Biodiversity Net Gain (BNG)

5.32. The ExA expressed a preference for the parties to agree a clear position on BNG, including a percentage range where possible, to be recorded within the Statements of Common Ground.

5.33. CDC made submissions outlining the remaining areas of disagreement with the Applicant in respect of BNG, principally in respect of the distinctiveness of grassland being established beneath solar panels.

5.34. RR explained that **ES Appendix 7.12 Biodiversity Net Gain Assessment** was going to be updated for submission at **Deadline 3 [Document Reference 6.3.7.12 Revision 3]**, and that this update would take account of comments received from the Council, including in relation to the treatment of grassland. RR confirmed that the updated assessment indicated the potential to deliver up to approximately 30% BNG and that this took into account the grassland condition beneath solar panels required by CDC.

5.35. The ExA requested a clear explanation of how the proposed BNG measures would be secured, monitored and managed over the operational lifetime of the authorised development.

5.36. TM explained that the primary control mechanism is secured through Requirement 8 (Landscape Ecological Management Plan) of Schedule 2 of the Draft DCO. TM noted that Requirement 8(2) requires any LEMP submitted for approval to be in substantial accordance with the **Outline LEMP [CR1-021**], and to align with the **Outline Construction Management Plan [REP2-062]** and **Landscape and Visual Mitigation Strategy [REP1-027]**.

5.37. TM further explained that Requirement 8(3)(a) of the Draft DCO required the LEMP to demonstrate how each phase of the authorised development contributed towards achieving at least the minimum 10% BNG. The LEMP also included detailed provisions for monitoring, reporting and long-term management. TM emphasised that, taken together, these measures provide a comprehensive and legally enforceable framework for securing, monitoring and maintaining BNG for the lifetime of the Scheme.

The Applicant's change request

5.38. The ExA noted that certain land had been removed from the scope of the Order powers but was being retained for the purposes of BNG. The ExA queried the rationale for this approach and how such land would be controlled and monitored if it would not fall within the Order powers.

5.39. TM referred to the **Works Plans [CR1-005**], explaining that the relevant areas are differentiated by shading. The hatched grey area represents special category land (common land) which encroaches into the SPA and is not subject to any compulsory acquisition, temporary possession or works powers. TM explained that adjacent areas identified as Work No. 3 (habitat creation) are intended to deliver habitat enhancement, and that the Applicant has retained the necessary powers to undertake such works where proposed.

5.40. Referring to the **Land Plans [CR1-004]**, TM further clarified that land parcel 2/A is included within Work No. 3 and may contribute towards BNG, but no built development is proposed within this area. Parcel 2/B is not included within the scope of the authorised development and is neither relied upon for BNG nor subject to any works.

5.41. TM confirmed that, insofar as land is relied upon for BNG purposes, it would form part of the relevant Order powers necessary to deliver and secure habitat enhancement.

5.42. The ExA sought clarification on whether the proposed changes to the Order Limits would result in a reduction in mitigation land for breeding and non-breeding birds.

5.43. RR confirmed that the land in question is not relied upon as formal mitigation land for breeding or non-breeding birds, and was not included within the relevant habitat calculations. RR explained that the land would nevertheless contribute to

broader biodiversity enhancements. It was also noted that Natural England had raised no objections in respect of the relevant Change Request.

5.44. The ExA requested that the Applicant's position in respect of the impact of the Change Request on ecology and biodiversity, be clearly set out in writing.

5.45. Action 12: The Applicant agreed to clarify this position in writing, including the distinction between land relied upon for formal mitigation, BNG delivery, and land falling outside the scope of the draft Order powers.

5.46. Post-hearing note: As set out in section 2 of the Applicant's Change Request Document [CR1-026]:

Parcels 1/E, 2/A, 3/A and 3/B – these parcels are special category land – common land shown coloured yellow on sheets 1, 2 and 3 of the Land Plans [Document Reference 2.2 Revision 4] and are not subject to compulsory acquisition or temporary possession. By extension, this land is also Countryside and Rights of Way Act 2000 ("CRoW") "access land" to which the public have (in principle) a right of access for the purposes of open air recreation. This land is required in connection with Work No. 3 (works to create, enhance and maintain green infrastructure and habitat management) and is accordingly still included with the Biodiversity Net Gain (BNG) calculations, but the condition of the grassland within this parcel has been amended within the BNG assessment to take into account the potential recreational use of the land. No other works would be undertaken within the extent of these plots (see para 6.20.1 of the Outline LEMP) and the land is *not* within the extent of mitigation parcel M1 (see paras 6.16 – 6.20 of the Outline LEMP) immediately to the south, which is specifically identified as forming part of the package of proposals identified in the Outline LEMP to support both breeding and non-breeding bird species.

Parcels 2/B – this parcel is special category land – common land shown coloured grey on sheet 2 of the Land Plans and by extension is also Countryside and Rights of Way Act 2000 CRoW access land to which the public have (in principle) a right of access for the purposes of open air recreation. The land also forms part of the Thorne Moor Special Area of Conservation, the Thorne and Hatfield Moors Special Protection Area, the Thorne, Crowle and Goole Moors Site of Special Scientific Interest (SSSI) and Hatfield Chase Ditches SSSI. This land is not subject to compulsory acquisition, temporary possession or works powers. This is secured by the Land Plans and the Works Plans

[Document Reference 2.3 Revision 3] together with the Draft DCO [Document Reference 3.1 Revision 6]. The land does not form part of the Scheme's BNG calculations and is outside the extent of mitigation parcel M1 immediately to the south.

Parcels 1/A, 1/B, 1/C, 1/D, 3/C, 3D and 3/E – these parcels are special category land – common land shown coloured grey on sheets 1 and 3 of the Land Plans and are not subject to compulsory acquisition, temporary possession or works powers. This is secured by the Land Plans and the Works Plans together with the Draft DCO. The land does not form part of the Scheme's BNG calculations and is also outside the extent of any mitigation area identified in the Outline LEMP.

5.47. Item 4c – Cultural Heritage

A brief update from NLC, CDC and the applicant on progress made in relation to archaeological work and requirements.

5.48. The ExA sought an update on the positions of CDC and the Applicant in respect of archaeology.

5.49. CDC made submission related to their latest position in respect of archaeology.

5.50. Referring to CDC's submission, the ExA queried whether a zoning plan should be secured as a requirement within the Draft DCO.

5.51. JM explained that the Applicant considered the existing approach within the **ES Appendix 8.6 Outline Archaeological Mitigation Strategy (OAMS) [REP2-045]** to be appropriate, with further refinement to be undertaken post-consent as part of the phased programme of investigation. JM confirmed that the Applicant does not consider that additional pre-determination work is required.

5.52. The ExA sought clarification from CDC as to the potential harm arising if zoning was deferred to the post-consent stage. CDC made submissions on this point.

5.53. JM explained that the Applicant's intended approach would be to avoid abortive or unnecessary works by deferring detailed investigation until there is greater certainty as to the final design and areas of impact (for example, cable routes). JM noted that mitigation is primarily proposed through preservation in situ, which would minimise ground disturbance.

5.54. The ExA queried whether there would be scope to refine the Scheme design in response to the findings of archaeological trenching.

5.55. JM confirmed that there is a high degree of flexibility within the Scheme layout, particularly in relation to the siting of solar arrays, which comprise the majority of the Order Limits, allowing for design adjustments where necessary.

5.56. JM confirmed that further information would be shared with stakeholders imminently, including additional data to support the Applicant's position, and that this data would then be formally submitted at Deadline 4. JM confirmed that the zoning plan within the Outline AMS would be revised in line with comments from South Yorkshire Archaeology Service (SYAS) on behalf of CDC. The zoning plan would be amended to include data previously submitted within **Figure 8.2 Non-Designated Heritage Assets [APP-152]** supporting **Environmental Statement Chapter 8 Cultural Heritage and Archaeology [REP2-037; REP2-038]** and the geophysical survey results presented within **6.3.8.2 Environmental Statement Appendix 8.2 Geophysical Survey Report [APP-086 – APP-092].**

5.57. Action 13: The ExA requested that both the Applicant and CDC set out their respective positions on archaeological matters in writing by Deadline 4, including clearly identifying any outstanding areas of disagreement.

5.58. CDC made submissions related to a possible minor amendment sought to the Draft DCO relating to the written scheme of investigation.

5.59. TM explained that the written scheme of investigation under Requirement 12 of Schedule 2 to the Draft DCO, would address these matters, including the recording and reporting of investigation results, as set out in paragraph 5.6 of the Outline AMS. TM confirmed that the information sought by CDC would be secured through the submission and approval of that scheme.

5.60. Post-hearing note: Due to the concerns raised by SYAS on behalf of CDC over the Applicant's approach to cultural heritage, the Applicant has considered the approaches taken on a number of recently consented DCO solar schemes. There are three schemes within the vicinity of the Order Limits which are of particular pertinence when considering the appropriateness of the approach taken by the Applicant.

<u>Fenwick Solar Farm Order 2026</u>

The application was supported by a desk-based assessment, a geophysical survey and a draft archaeological mitigation strategy (AMS). The trial trenching report was completed during examination and submitted at Deadline 1.

Cultural heritage points in the statement of common ground with CDC were agreed by SYAS at Deadline 1 without having the trenching report in hand and whilst acknowledging there were remaining areas of uncertainty.

There is an apparent inconsistency with the approaches taken to geoarchaeological assessment between Fenwick Solar Farm and the Scheme. The whole of the Fenwick Solar Order Limits are recorded by the British Geological Survey as containing Glaciolacustrine deposits but no geoarchaeological assessment was deemed necessary whereas with the Scheme the Applicant has been advised that borehole survey is required despite the submission of a specialist assessment. These deposits continue into the western part of the Order Limits.

Despite the very similar potential of Fenwick Solar Farm for prehistoric lithic material to the Scheme (based on the results of the Humberhead Levels Survey which included parts of Fenwick Solar) no requests for fieldwalking or test-pitting were made by SYAS.

<u>Helios Renewable Energy Project Order 2025</u>

The application was supported by a desk-based assessment, a geophysical survey and an archaeological mitigation strategy (AMS). No intrusive archaeological works have been completed in relation to this scheme.

North Yorkshire Council accepted the principle that archaeological investigation could be completed through the AMS secured by a requirement in the DCO. The Local Impact Report noted:

'The known cropmarks are unlikely to be fully representative of the entire archaeological resource. The construction of a solar farm may have a negative impact on sub-surface archaeological remains through direct impact from piling, cable trenching, construction works and foundations for sub-stations etc, along with access roads, security fencing and other related infrastructure.

The application includes a Cultural Heritage chapter (Chapter 6; June 2024) and Cultural Heritage Technical Appendix (Appendix 6.1) with regards to the impact of the proposal on heritage assets of archaeological interest. These documents are supported by an archaeological geophysical survey (Appendix 6.3) which has identified a number of anomalies consistent with archaeological features, many of which correspond with the previously recorded cropmark sites. Taken together these documents are a proportionate assessment commensurate to the expected significance of the archaeological remains.

The application includes an Outline Archaeological Mitigation Strategy (Appendix 6.2). This strategy takes the approach of a combination of designing out the more complex anomalies whilst ensuring that where impact might occur that this is mitigated by archaeological monitoring (watching brief). The Authority agrees that this is a reasonable response and is an approach that has been supported elsewhere on solar schemes in North Yorkshire.'

<u>East Yorkshire Solar Farm Order 2025</u>

The application was supported by a desk-based assessment, a geophysical survey and targeted trial trenching due to the identified presence of a substantial Romano-British settlement within the geophysical survey data.

The geophysical survey was unable to include all of the land within the order limits due to access constraints (around 120ha were not surveyed, approaching 10% of the order limits). The results of the geophysical survey appeared to be very similar in character to the results produced for the Scheme, with a large number of drains and focused pockets of archaeological anomalies.

The site was within the study area for the Humberhead Levels as with the Scheme and included land that was drained in the 1620s by Vermuyden before being warped in the post-medieval period. No requests for fieldwalking or test-pitting were made by the local planning authority.

The approach to additional archaeological investigations was outlined in the Overarching WSI which was submitted at Deadline 1 and secured by a requirement in the DCO.

Unlike the Scheme, no concerns were raised by the LPA regarding the need for geoarchaeological assessments to better understand the reclaimed landscape and warping. Nor were the findings of the geophysical survey questioned due to the possibility of warp or alluvial deposits masking archaeological remains.

6 Agenda item 5 – Any other matters

6.1. The Applicant had no additional matters to make under this agenda item.

7 Agenda item 6 – Closure of the hearing

7.1. The ExA closed the hearing.