



City of
Doncaster
Council

Deadline 7 Submission

Project: Tween Bridge Solar Farm (EN010148)

Applicant: RWE Renewables UK Solar and Storage Limited

Interested Party Number: [REDACTED]

29th September 2026



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1. Introduction:

- 1.1 This document includes the Deadline 6 Submission of City of Doncaster Council ("CDC" or "the Council") in response to the Tween Bridge Solar Farm Project ("the proposed development"). The proposed development is being progressed by an application for Development Consent by RWE Renewables UK Solar and Storage Limited ("the Applicant").
- 1.2 The submission follows on from the submission of the responses to the Examining Authority's written questions and requests for information ("ExQ3") issued on 11 August 2026.
- 1.3 In accordance with the Examining Authority's Rule 6 Letter of 16th March 2026 this submission sets out CDC's comments on the responses to ExQ3; comments on responses to the ExA proposed draft Development Consent Order ("dDCO"); and comments on any further information received.
- 1.4 CDC draws the ExA's attention to the fact that 97 additional or amended documents were submitted at Deadline 6, 78 of which were submitted by the Applicant. These were only published in the Planning Inspectorate website late in the afternoon on Thursday 24th September 2026, with the notification of their publication received by CDC at 5.15pm on Thursday 24th September 2026. This has left the CDC, and other parties, only three working days to review all the documents submitted at Deadline 6, which is inadequate in terms of the amount of time to do so. The comments set out in this submission, by necessity are accordingly very brief and only include additional comments made in response to the Applicant's Deadline 6 Submissions including the Applicant's responses to ExQ3. The Council's position in relation to each topic remains as set out in previous submissions, unless otherwise stated below, or as amended by the comments set out below.

2. Comments on the Responses to ExQ3

- 2.1 CDC has the following comments set out in in order of the topic headings included ExQ3.

1. General and Cross-Topic Questions

- 2.2 CDC has no additional comments to make in relation to the Applicant's responses to the General and Cross-Topic Questions

2. Biodiversity and ecology (Including Habitat Regulations Assessment)

Applicant's Response to Q3.2.2

- 2.3 The Applicant refers to DCO.7.2 of the 8.27 Applicant Responses to ExA Commentary on the dDCO (Revision 1) [[REP6-047](#)].

- 2.4 With respect to the issue of BNG and how specific percentages will be secured in the Draft DCO this point is agreed.
- 2.5 With respect to CDC's involvement in BNG monitoring, the Applicant states that Monitoring Reports will be sent to CDC, but that there is no requirement for a fee to be paid to CDC with respect to monitoring. CDC disagree with this point, and believe the cost of the officer time to read and review the numerous monitoring reports should be covered. There are numerous instances through the LEMP where it details that the LPA will need to review monitoring reports: e.g. for breeding birds, non breeding birds, water quality, invertebrates (in addition to BNG) and in some cases, agree remedial measures. This is potentially a considerable amount of work and fees should be included within the DCO to cover the cost of both reviewing reports as well as agreeing necessary changes to the LEMP. Further detail is set out in Annex 1, Table 1 below (in reply to DCO 7.2).
- 2.6 The ExA should also see the CDC's additional comments relating to the draft DCO set out in Annex 1, Table 1 at the end of this report.

3. Climate Change

- 2.7 CDC has no additional comments to make in relation to the Applicant's responses to the Climate Change questions.

4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations

- 2.8 CDC has no additional comments to make in relation to the Applicant's responses to the questions on Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations

5. The draft Development Consent Order (DCO)

- 2.9 CDC's additional comments are set out in Annex 1, Table 1 at the end of this report.

6. Cultural Heritage

Applicant's Response to Q3.6.1

- 2.10 In relation to the Applicant's response to Q3.6.1 CDC welcomes the submission of the zoning plan comprising Figures 2-5 in Appendix 2 of the Outline Archaeological Mitigation Strategy and notes that these are to provide a basis for discussion about the applicability and suitability of specific mitigation measures in particular locations.

7. Flood Risk, hydrology, and water resources

- 2.11 CDC as the Lead Local Flood Authority (LLFA) In terms of the SoCG considers that all matters are agreed and has no further comments on the Applicant's responses to the question on Flood Risk, Hydrology, and Water Resources or the draft DCO.

8. Landscape and Visual

- 2.12 CDC has no additional comments to make in relation to the Applicant's responses to the Landscape and Visual questions and maintains its comments set out its responses to ExQ3 and the Statement of Common Ground.

9. Land Use, Soil and Ground Conditions

- 2.13 CDC has no additional comments to make in relation to the Applicant's responses to the questions on Land Use, Soil and Ground Conditions.

10. Network Connection

- 2.14 CDC has no additional comments to make in relation to the Applicant's responses to the questions on the Network Connection.

11. Noise and vibration

- 2.15 CDC has no additional comments to make in relation to the Applicant's responses to the questions on Noise and Vibration.

12. Socio-Economic

- 2.16 CDC has no additional comments to make in relation to the Applicant's responses to the Socio-Economic questions.

13. Transport and Access

- 2.17 CDC has no additional comments to make in relation to the Applicant's responses to the questions on Transport and Access.
- 2.18 The ExA should also see the CDC's additional comments relating to the draft DCO set out in Annex 1, Table 1 at the end of this report.

3. Other Matters

1. Doncaster Sheffield Airport

- 3.1 CDC has one other matter to bring to the ExAs attention which it has only become aware on the past two to three weeks, in the course of a public participation exercise being undertaken by the airport authority relating to the re-opening of the airport and specifically the potential flight paths associated with the airport.
- 3.2 At Issue Specific Hearing 3 (ISH3) Part 2 of the Examination, Mr Carr a resident living very close to the proposed solar farm (but not an affected owner in terms of land requirements) [Transcript of Issue Specific Hearing 3 (ISH3) - Part 2 - 24 June 2026 [\[EV5-005\]](#) (page 3, Speaker 5 at 9.47) expressed concern about large flocks of geese in vicinity of where the solar panels are proposed to be located. His concern was one of safety and the possibility of bird strike affecting aeroplanes on the flight path to the nearby Doncaster Sheffield Airport.
- 3.3 The position regarding the airport is that it was closed by the then owner in 2022 but since then CDC in conjunction with the Mayoral Authority of South Yorkshire together with other stakeholders, has been involved in complex negotiations to take over the airport and to reopen it as an operational airport. Matters have progressed with funding, as the reopened airport is at the heart of one of the most significant regeneration projects in the North of England.
- 3.4 When the airport closed in 2022, it went from being an operational airport to being a habitat. Specifically, regarding potential bird strike risk, CDC understands that the airport authority will be conducting their own survey and analysis based on a 13 km radius around the airport, but that this will not be undertaken until nearer the date of the opening of the airport, currently due understood to be 2027. Whilst it is understood that some consultation has taken place between the Applicant and the airport authority this was whilst the airport was non-operational, and circumstances are likely to have changed whilst the airport has been in a condition as a habitat. CDC understands from the airport authority that additional safeguarding measures may need to be implemented which could impact on the solar farm proposals but that the precise nature of any safeguarding measures will not be known until the results of a 13km survey have been analysed nearer to the time of reopening of the airport.
- 3.5 CDC highlight this issue so the ExA is aware of the matter. It has also alerted the Applicant to the issue, albeit CDC understands from the Applicant they have consulted with the airport.

Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

Background

Table 1 below sets out CDC’s reply to the *Applicant’s Response to the ExA Commentary on the dDCO* [[REP6-047](#)]. CDC does not have comments on every point made by the Applicant in that document. In Table 1, CDC’s reply is set out, in bold and underlined, below the Applicant’s response.

Table 1: CDC’s Reply to the *Applicant’s response to ExA’s commentary on the Draft DCO* [REP6-047]

Ref:	Directed to:	Commentary or Question	The Applicant’s Response & CDC’s Reply
2. Part 2 – Principal Powers			
DCO.2.1	Applicant	Article 3 • Please amend article 3(1) as follows: “Subject to the provisions of this Order and the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.” • Please also delete article 3(2). The ExA has considered the applicant’s response to EXQ2 2.5.1 (Articles) [REP4-062], including the precedents cited. However, this issue was directly addressed and settled in one of the most recently made solar DCOs. In the Peartree made solar DCO the applicant (RWE Renewables UK Solar and Storage Limited) proposed exactly the same wording in revision 11 of its dDCO. The SoS made the order excluding the wording at Article 3(2). Reasons are given in the ExA	The Applicant has amended article 3(1) in the Draft DCO [Document Reference 3.1 Revision 9] submitted alongside this submission, as requested. However, the Applicant has not removed article 3(2). The Applicant considers there is a strong justification for the provision in the case of this scheme. In particular, it is necessary to ensure that there are no local acts or other legislation that might hinder the construction, operation, maintenance and decommissioning of the authorised development. Including this article ensures that the construction, operation, maintenance and decommissioning of the authorised development are not jeopardised by any incompatible statutory provisions which might exist, i.e. a provision which would be an absolute restriction that could not be dealt with unless by statutory amendment. The provision would prevent delay in this situation by ensuring that the authorised development could be constructed without impediment. The Applicant has carried out a proportionate search of local legislation that applies within reasonably close proximity to land within the Order limits. The specific local enactments identified

Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

		recommendation report (paragraphs 7.43 to 7.46) and the SoS decision letter. Please could the applicant therefore amend the dDCO accordingly, deleting Article 3(2), by deadline 6. • For the same reason please amend article 5 as follows: ‘—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise. (2) This article only authorises the carrying out of maintenance works within the Order limits. (3) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement’.	through the Applicant’s proportionate search of local legislation are disapplied under article 9 (Application and modification of statutory provisions) via Schedule 3 to the Order insofar as the provisions still in force are inconsistent with how the powers in the Order can be exercised. The Applicant stresses that the DCO regime is intended to operate as a 'one-stop shop' and excluding the provision runs the risk of delaying this nationally significant infrastructure project. The Applicant also notes that Article 3(2) would only operate to the extent of any inconsistency between this Order and another enactment. It does not disapply statutory controls generally and does not remove any requirement for separate consents where those consents are expressly preserved by the Planning Act 2008 or this Order. The provision therefore serves a limited and targeted purpose in avoiding unintended legislative conflict. For completeness, this provision was not subject to specific consideration in the ExA's recommendation report on Peartree Hill. <u>CDC’s reply</u> <u>CDC notes the Applicant’s concern here is with local enactments and that Schedule 3 includes those local enactments which it considers ought to be disapplied. CDC further notes the article is precedent in National Highways DCOs rather than in solar schemes. While there might be merit</u>
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			<u>in including this provision in a linear scheme. CDC struggles to see the need for article 3(2) in this instance.</u>
DCO.2.3	Applicant	Article 8 The applicant’s response to EXQ2 question 2.5.2 (Articles) [REP4-062] is noted. However, the applicant should delete article 8(3)(1)(b) and bring the dDCO in line with the Peartree made Order, for which RWE Renewables UK Solar and Storage Limited was the applicant. Alternatively, provide an explanation as to why a deviation from the approach in Peartree should be taken. The reference made to article 47 is noted. However, this only applies to compensation rather than development costs. Any liability provisions would be largely redundant in a situation where, for example, a holding company goes into insolvency. It is the responsibility of the ExA to ensure that the applicant/ undertaker has funding to cover compensation and development costs for this reason. The same funding tests should be capable of being applied prior to transfer to a holding company or subsidiary. At present, the ExA considers that the dDCO does not secure this.	The Applicant strongly objects to the removal of article 8(3)(1)(b), as the delivery model for the Scheme remains under consideration and will not be confirmed until post-consent stage. For commercial reasons, delivery of a solar project is typically through a Special Purpose Vehicle (SPV) established by the ultimate promoting body for that purpose. This SPV arrangement provides for future commercial flexibility whilst not affecting any liability or compliance with the requirements of a Funding Statement (on which, see below) which are fulfilled by that ultimate promoting body. On some projects, the SPV has been established <i>prior</i> to the application, acts as the Applicant, and is defined as the undertaker in the relevant DCO. For example, whilst Springwell Solar Farm is an EDF project, the applicant was, and the undertaker is, Springwell Energy Farm Ltd (an EDF subsidiary SPV). Similarly, Cottam Solar, West Burton, East Pye, and Green Hill are each Island Green Power projects, but each project has its own SPV which acts as applicant and is named as undertaker. The DCOs for those projects therefore do not include an equivalent to article 8(3)(1)(b) because it is unnecessary. (However, some of those DCOs do nevertheless contain similar provisions allowing for

Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

		the transfer of the benefit of the Order as regards particular works or groups of works, to a holding company or subsidiary). On other projects, however, no SPV is established in advance, and the application is made in the name of (and the undertaker is named in the DCO as being) a more general development company within the corporate group. In those circumstances, it is precedent for the DCO to provide (as article 8(3)(1)(b) provides in this case) for the transfer of the benefit of the Order to a holding company or subsidiary of the named undertaker without the consent of the Secretary of State, in order to enable the transfer to a “delivery SPV” post-consent. This was notably the case for RWE’s own Byers Gill Solar project (where, as here, the promoter was RWE Renewables UK Solar and Storage Limited) with article 8(4)(b) included in the Byers Gill Solar Order 2025, which is in identical terms to article 8(3)(1)(b)) in this case. The Applicant accepts that the DCO for Peartree Hill Solar, although also promoted by RWE Renewables UK Solar and Storage Limited, does not contain an equivalent provision. This was a reflection of the Applicant’s expectations regarding the specific delivery model for that project during the application and examination process, which are specific and unique to that project and should not be extended to this Scheme.
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			The Applicant's position as regards article 8(3)(1)(b) is therefore both preceded and reflective of the typical approach adopted as regards delivery of solar projects via an SPV established for that purpose. The Applicant considers that the removal of the provision where it is required (as is the case here) would impose an unnecessary additional hurdle (by thereby requiring Secretary of State consent), causing the Applicant delay and potential detriment in its delivery of the project. The Applicant would further note that Article 8(9) is clear that "the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker". It is therefore not the case that any liability would be redundant – any liability (and restrictions and obligations) under the Order would apply equally to a transferee as to the named undertaker. Consistent with the preceded approach to the drafting of this article, this obligation rightly applies to compensation as opposed to development costs (on which see further below). Article 47 requires the provision of a guarantee, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker in respect of specified provisions of the DCO.
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			In this context, the Applicant would highlight that Article 47 references the temporary possession article, in addition to compulsory acquisition of land. The Applicant submits that neither it, nor any other prudent developer particularly any developer such as the Applicant which has a portfolio of solar projects across the UK, would provide guarantees in respect of compulsory acquisition and temporary possession (i.e., stemming from development) in circumstances where it did not have the development costs in place. The ExA sets out that it is seeking to ensure that "the applicant/ undertaker has funding to cover compensation and development costs". The tests in the Compulsory Acquisition Guidance are that: - Paragraph 18 – in respect of land and compensation, <i>"Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of."</i> - Paragraph 17, in respect of wider development costs, the Funding Statement "should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required."
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			- The Applicant has complied with both of these tests. The inclusion of article 8(1)(b) does not affect this. In particular, the Applicant would highlight that the Guidance is clear that whilst there is a requirement to demonstrate funding "is likely" to be in place for compensation, this contrasts with wider development costs where "as much information as possible" should be provided. The Funding Statement does precisely that. The Applicant's position is that the two requirements should not be conflated.
3. Part 3 - Streets			
DCO.3.1	Applicant	Article 11 Draft DCO [REP5-002] article 11 does not require that the applicant obtains approval from the street authority. The vast majority of recently made solar DCOs include this requirement, including the made Peartree DCO, for which RWE was the applicant. The made Fenwick DCO does not include this requirement. However, in that case, the applicant and CDC agreed a draft Framework Highway Agreement and a separate article required this agreement to be reached before various works in part 3 (including street works). The applicant should therefore either include a Framework Highway Agreement or amend article 11 to	The Applicant's position is that: 1. The distinction between the Peartree Hill DCO, and the Draft DCO [Document Reference 3.1 Revision 9] is that the proposed power in article 11 of the draft DCO is limited by reference to "the streets specified in Schedule 4". By contrast, the Peartree Hill DCO permits the relevant street works in "any of the streets as are within the Order limits". In these circumstances, a requirement for approval is considered duplicative and unnecessary because the relevant streets have already been specifically identified in Schedule 4, are subject to a detailed examination process and would be authorised by the Secretary of State if the Order is made.

Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

		include the following additional wording: ‘(4) The powers conferred by paragraph (1) must not be exercised without prior written consent of the street authority.’ Alternatively, confirm whether and how protective provisions would address these issues as alluded to by the applicant in table 3-11 of the SoCG [REP5-047].	2. The Applicant's approach here is identical to that adopted in the recently consented Beacon Fen Energy Park Order 2026 (see article 11) and Byers Gill Solar Order 2025 (see article 9) – both of which where there was no Framework Agreement – as well as the West Burton Solar Project Order 2025 (article 8), the Tillbridge Solar Order 2025 (article 8), the Oaklands Farm Solar Park Order 2025 (see article 8), the Dean Moor Solar Farm Order 2026 (see article 10), and the Springwell Solar Farm Order 2026 (see article 8). In respect of these Orders, the Applicant has been unable to find any indication that the omission of a consent provision is in any way related to a Framework Agreement. The Fenwick DCO is, in other words, an outlier. In addition, unlike the Fenwick DCO, the Draft DCO includes a number of additional controls. 3. In particular, the Applicant considers there are appropriate controls already in place, including (not least) the fact that the CDC permit scheme would apply (see article 12 of the Draft DCO). The Protective Provisions for Local Highway Authorities (which apply to CDC) at Part 10 of Schedule 14 also secure a requirement that "the highway works must not commence until ... the detailed design information and a programme of works has been submitted to and approved by the local highway authority" (paragraph 137), and sets out a process by which "highway works must
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			be carried out to the satisfaction of the local highway authority" (paragraph 138). 4. In circumstances where appropriate control over the works is provided in the Protective Provisions, the Applicant considers it inappropriate and unnecessary to further deviate from all but one of the recent precedents identified above. <u>CDC’s reply</u> <u>CDC considers the ExA’s and Applicant’s concerns here could be addressed by making article 11(1) subject to article 12 and to the local highway authority protective provisions. This change to article 11(1) would not impose another obligation on the Applicant but would clarify the relationship between this article and the other provisions mentioned above. For example –</u> <u>“11.—(1) The Subject to article 12 (application of permit scheme) and Part 10 (for the protection of local highway authorities) of Schedule 14 (protective provisions) the undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may— ...”</u>
DCO.3.6	Applicant	Article 16(5)b	The Applicant has not made the requested amendment to the Draft DCO [Document Reference

Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

	Please replace article 16(5)b with the following (see Peartree): ‘any other street or public right of way without the consent of the street authority, which may attach reasonable conditions to the consent, such consent not to be unreasonably withheld.’ This is already addressed under article 16(9) of the dDCO [REP5-002].	3.1 Revision 9]. The Applicant considers that there may be circumstances where a consent not being granted in a period less than 28 days would constitute the consent being ‘unreasonably delayed’. For example, if an application was refused, and then promptly re-submitted to remedy any alleged deficiency, in those circumstances, taking the full 28 days may not be appropriate. Whilst the Applicant is not seeking to modify the period for deemed consent, ensuring that the consent is provided expeditiously is considered to be appropriate for the delivery of a nationally significant infrastructure project. <u>CDC’s reply</u> <u>CDC is unconvinced by the Applicant’s justification. The Applicant has chosen 28 days because it considers (though CDC disagrees) that it is an appropriate time limit. The idea that a local planning authority would, for no good reason, hold up the granting of a consent that is an appropriate form to be consented is fanciful and unsupported by any evidence. CDC maintains its position on the inappropriateness of 28 days as a determination period. Further details are set out in the following documents –</u> • <u>Annex 2 to CDC’s Local Impact Report [REP1-062], row 6 (pages 4 and 5):</u>
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			• <u>Written summary of oral submissions made at hearings in w/c 22 June 2023 [REP3-081], Table 1, row 6 (page 15);</u> • <u>Statement of Common Ground (Rev 5) [REP6-064], Table 3-11, row 3, page 118; and</u> • <u>Response to ExQ3 [REP6-091], Table 1, DCO 3.3.</u>
5. Part 4 – Supplemental Powers			
DCO.4.2	Applicant	Article 22 Delete ‘or delayed’ from article 22(4)(b) as this is already addressed in article 22(6).	The Applicant has not made the requested amendment to the Draft DCO [Document Reference 3.1 Revision 9]. The Applicant considers that there may be circumstances where a consent not being granted in a period less than 28 days would constitute the consent being 'unreasonably delayed. For example, if an application was refused, and then promptly re-submitted to remedy any alleged deficiency, in those circumstances, taking the full 28 days may not be appropriate. Whilst the Applicant is not seeking to modify the period for deemed consent, ensuring that the consent is provided expeditiously is considered to be appropriate for the delivery of a nationally significant infrastructure project. <u>CDC’s reply</u> <u>Please see CDC’s reply to DCO. 3.6.</u>

Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

6. Part 6 – Miscellaneous and General			
DCO.6.4	Applicant	Article 49 Please delete article 49. This is the consistent approach taken in all recent solar DCOs including Peartree and One Earth made DCOs. As such, whilst the ExA acknowledges the applicant’s attempted justification for this provision, it should be removed.	The Applicant has made an application for a correction to the Peartree Hill DCO to reinstate these provisions. The Applicant therefore does not agree, or consider it appropriate, to remove these provisions. The Applicant relies on, and repeats, the justification set out in the Explanatory Memorandum [Document Reference 3.2 Revision 7]. In short, these paragraphs are necessary, appropriate and precedent. For completeness, the Government has announced that the recommendations of the Nuclear Regulatory Taskforce were accepted in full, and that they would be applied across all sectors. The removal of the provisions plainly conflict with Recommendation 28, and we would submit that this does not reflect the Secretary of State's intent, or policy. Recommendation 28(d) explicitly recommends that model provisions for DCOs should be re-instated, and these should include "A provision which ensures that overlapping consents do not lead to enforcement action being taken." The Applicant's proposed drafting is substantially the same as article 56 of The A122 (Lower Thames Crossing) Development Consent Order 2025 which is referenced within the recommendation as an example.

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			<u>CDC’s reply</u> <u>CDC notes that, not only does this article not feature in solar DCOs, but that the Secretary of State has deleted it from draft solar DCOs at determination stage. If article 49 is to be retained on this occasion, CDC considers it should include for the avoidance of doubt, after paragraph (4), the following paragraph –</u> <u>(4A) Where any development to which this article relates is carried out or used pursuant to a planning permission granted under the 1990 Act or development consent granted under the 2008 Act, nothing in this article prevents any enforcement action under the 1990 Act or the 2008 Act being taken in relation to any breach of that permission or consent where that breach is not an inconsistency for the purposes of paragraph (2) or (3).</u>
7. Schedule 2 – Requirements			
DCO.7.2	NLC, CDC, and the Applicant	Requirement 8(3)(a) The ExA notes CDC’s response to EXQ2 Q2.2.5 [REP4-082]. Could CDC and the applicant please come to an agreement on draft wording for dDCO Requirement 8(3)(a). Reference should be made to specific percentages for different area-based habitat units. The applicant is advised	Paragraph 5.4.45 of EN-1 sets out that " <i>The Secretary of State should consider what appropriate requirements should be attached to any consent and/or in any planning obligations entered into, in order to ensure that any mitigation or biodiversity net gain measures, <u>if offered</u>, are delivered and maintained.</i> "

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	to acknowledge the approach taken by the SoS and ExA in considering the Peartree solar farm made Order. In that case, the applicant’s final dDCO omitted any commitment to % BNG in the wording of the LEMP requirement. However, paragraph 3.4.54 of the recommendation report shows that the applicant provided additional wording, including area-based habitat unit BNG percentages, on a without prejudice basis. Ultimately that alternative wording was included in the made DCO. In addition, the applicant should also note the examples cited in CDC’s response to EXQ2 Q2.2.5. If a different approach is proposed for Tween Bridge then the applicant will need to fully justify this. If the applicant refuses to amend the DCO as above, then it should please provide the alternative wording (setting out area-based habitat unit percentages) to allow the SoS the option of including wording with accurate percentages. CDC and the applicant should also explain how CDC’s involvement in monitoring would be secured and funded within the dDCO. NLC should also provide representations confirming whether it intends to be involved in the monitoring of new habitats in relation to BNG.	For completeness, the Biodiversity Net Gain Statement for Energy – which does not apply to the Scheme - is similarly clear that "<i>If applicants propose to secure any significant on-site biodiversity gains through requirements in the DCO, they must include these provisions in the draft DCO.</i>" Nothing in national policy requires specific percentages above 10% BNG to be secured in the DCO. The Applicant's assessment in Appendix 7.12 Biodiversity Net Gain Assessment [REP3-029], demonstrates that the Scheme would achieve approximately 28.50% in habitat units, 172.88% in hedgerow units and 10.26% in watercourse units. These gains are substantially in excess of the minimum 10% BNG required under the statutory BNG regime despite the fact that the statutory BNG does not apply to the Scheme. Notwithstanding this position, the Applicant acknowledges the approach that has been taken in a number of made solar DCOs, including the approach ultimately adopted by the Secretary of State in the Peartree Hill Solar Farm Order. Having considered the Examining Authority's comments and the examples referred to in City of Doncaster Council's response to EXQ2 Q2.2.5 [REP4-082], the Applicant has updated Requirement 8(3)(a) of the Draft DCO at Deadline 6 [Document Reference 3.1 Revision 9] to include specific BNG percentages for each unit type. The Applicant notes that the amended wording of Requirement 8(3)(a) has been agreed with and endorsed by CDC.
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Annex 1 – CDC’s Reply to the *Applicant’s Responses to the ExA Commentary on the dDCO* [REP6-047]

			The revised drafting secures a minimum BNG of: 20% in habitat units; 100% in hedgerow units; and 10% in watercourse units. The Applicant considers that this approach appropriately reflects the direction of travel emerging from recently made solar DCOs whilst retaining a reasonable degree of flexibility in the delivery of the landscaping and ecological mitigation strategy over the lifetime of the Scheme. The Applicant would note that in the Peartree Hill DCO, the assessment reported a net gain of 61.78%, 41.85% and 10.06% respectively. These were translated into requirements for a 55%, 35% and 10% gain in the made Order respectively. The revised percentages proposed remain comfortably above the minimum 10% BNG threshold established by the statutory regime, whilst recognising that ecological designs may evolve over the operational lifetime of the Scheme. Along with CDC’s endorsement of these percentages, the Applicant therefore considers that the amended Requirement 8(3)(a), as submitted at Deadline 6, provides an appropriate and proportionate mechanism for securing substantial biodiversity enhancements. In respect of CDC’s involvement in monitoring and how that would be secured and
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			funded within the Draft DCO [Document Reference 3.1 Revision 9], the Applicant notes as follows. First, the statutory BNG regime under the Environment Act 2021 will apply to NSIPs accepted for examination on or after 2 November 2026 and therefore, the Scheme falls outside that mandatory regime. Notwithstanding this position, the Applicant has voluntarily committed to delivering the statutory minimum requirement of 10% BNG and has secured an associated long-term management and monitoring framework through the Draft DCO, via Requirement 8 and the Outline Landscape and Ecology Management Plan (LEMP) [Document Reference 7.6 Revision 6]. The Applicant is therefore, already going above and beyond its required statutory obligations. The Applicant considers that CDC is not proposed to have an active monitoring role in respect of BNG and therefore there is no separate monitoring function that requires securing or funding through the Draft DCO. The monitoring of BNG delivered through the Scheme is the responsibility of the Applicant and is set out in the Outline LEMP to ensure that the delivery is of BNG is in line with the commitments. Section 7 of the Outline LEMP sets out the monitoring arrangements for habitats created and enhanced as part of the Scheme. Paragraph 7.16 confirms that monitoring reports will be prepared by the Applicant and submitted to the relevant local planning authorities in years 2, 5, 10, 15, 20, 25, 30 and 35
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		following commencement of development. These reports will assess habitat condition and progress towards target outcomes, identify any areas where habitats are not meeting management objectives, and set out any remedial measures or revised management prescriptions required. The Outline LEMP is secured through Requirement 8 of Schedule 2 to the Draft DCO which requires that the provision of a detailed LEMP is to be substantially in accordance with the Outline LEMP. Accordingly, as per paragraph 7.16, CDC's role is limited to receiving monitoring information prepared by the Applicant. The Draft DCO does not require CDC to undertake habitat surveys, produce monitoring reports, review ecological data, certify compliance or carry out any other active monitoring function. The Applicant therefore considers that there is no monitoring role for CDC that requires a dedicated funding mechanism. The Applicant acknowledges that, in the Town and Country Planning Act 1990 context, local planning authorities will often seek monitoring fees through section 106 agreements in connection with biodiversity net gain obligations. However, the circumstances are materially different in this case. As noted, the Scheme is not subject to the mandatory biodiversity net gain regime introduced by the Environment Act 2021 and the Applicant's voluntary commitment to deliver biodiversity net gain is secured voluntarily through Requirement 8 and the Outline LEMP. Further, the monitoring of biodiversity net gain is proposed to be undertaken by the Applicant, with
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		monitoring reports provided to the relevant local authorities at prescribed intervals. CDC is therefore not required to undertake any active monitoring function. In those circumstances, the Applicant does not consider that a monitoring contribution under a section 106 agreement would satisfy the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Such a contribution would not be necessary to make the Scheme acceptable in planning terms, given that BNG and the associated monitoring regime are already secured through the Draft DCO. Nor would it be directly related to a function undertaken by CDC, as responsibility for monitoring and reporting rests with the Applicant. Accordingly, the Applicant does not consider that a separate monitoring fee or section 106-style monitoring arrangement would be justified in this case. The Applicant also notes that the Biodiversity Gain Statement for Energy NSIPs does not identify a requirement for local planning authorities to receive a monitoring fee, let alone in circumstances where the Applicant is responsible for undertaking and reporting the monitoring. Finally, and in any event, compliance with Requirement 8 would be enforceable through the statutory enforcement mechanisms available under the Planning Act 2008 in the event of any breach of the Draft DCO. The Applicant therefore considers that the Draft DCO already contains an appropriate mechanism to secure the delivery, management and
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		monitoring of BNG outcomes. The existence of those enforcement powers does not necessitate the establishment of a separate monitoring role for CDC or the payment of a monitoring fee. Responsibility for implementing, monitoring and reporting on BNG remains with the Applicant throughout the monitoring period. <u>CDC’s reply</u> <u>Regarding the drafting of requirement 8(3)(a) (landscape and ecology management plans) CDC is content with the drafting included in the Deadline 6 version of the draft DCO [REP6-003]. It will be noted that, in Table 1 of CDC’s Response to ExQ3 [REP6-091], (DCO 3.3.) reference is made to achieving “a minimum of 25% biodiversity net gain in area habitat units”. The reference to 25% was an error; CDC considers 20% is acceptable. Regarding CDC’s involvement in BNG monitoring, there are several reasons why a monitoring fee should be secured by section 106 agreement or in the draft Order –</u> <u>1. By paragraph 5.4.45 of EN-1 the Secretary of State must consider what appropriate requirements should be attached to any consent to ensure BNG measures are “delivered and maintained”. The emphasis on delivery and maintenance suggests an ongoing supervisory function. While the Applicant proposes to submit monitoring reports to CDC at certain anniversaries, the receipt of each report will</u>
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		<u>generate work for CDC. For instance, CDC will need to consider the contents of each document (at years 2, 5, 10, 15, 20, 25, 30 and 35) and, where necessary, question the document’s conclusions. It would be unreasonable for CDC not to do this and so the idea that CDC’s role is “limited to receiving monitoring information” (and nothing else) is fanciful. A fee is necessary to ensure CDC can perform its role satisfactorily.</u> <u>2. The fact the BNG commitment is voluntary does not weaken the justification for a monitoring fee. The BNG commitments secured through Requirement 8 will require meaningful scrutiny over the 35-year monitoring period. The scale and duration of the BNG commitments are points in favour of (rather than points against) the case for properly resourcing CDC for this work.</u> <u>3. The Applicant’s argument that a monitoring contribution would not satisfy the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 is incorrect. The tests require that a planning obligation is (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development. A monitoring fee satisfies each test: (a) it is necessary because, without adequate resources, CDC cannot meaningfully assess whether the BNG commitments are being achieved, thereby undermining the effectiveness</u>
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		<u>of the ecological mitigation strategy; (b) it is directly related to the development because it funds oversight of obligations arising specifically from this authorised development; and (c) a proportionate monitoring fee calculated by reference to anticipated officer time and ecological consultancy costs would be fairly and reasonably related in scale to the monitoring burden created by the authorised development.</u> <u>4. The Applicant’s reference to the Planning Act’s enforcement regime does not do away with the need for a monitoring fee. Enforcement is a remedy of last resort and depends upon CDC first identifying a breach. Without adequate resources to review the submitted reports CDC would be unable to discharge this function effectively. The availability of enforcement powers is of little practical value if CDC cannot identify when enforcement may be justified. A monitoring fee serves to make the enforcement regime meaningful.</u> <u>5. There is established precedent for monitoring fees in the context of BNG obligations. While the mandatory BNG regime does not apply to the authorised development, the rationale for monitoring fees is the same. The fact that BNG is provided voluntarily does not change the fact that Requirement 8 will give rise to work for CDC and the Applicant (and not the public purse) should pay for that.</u>
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			<u>6. It would be unfair for the burden of monitoring the Applicant’s BNG commitments to fall on CDC, particularly given the 35-year monitoring period and the technical complexity of the work involved.</u>
DCO.7.3	Applicant and CDC	Requirement 12 In relation to CDC’s response to EXQ2 2.5.1 [REP5-058], could the applicant please confirm how the archaeological mitigation would be finalised and how this would be secured in the draft DCO. Is the applicant suggesting that this would be included within the Written Scheme of Investigation (WSI)? If so, shouldn’t Requirement 12 be amended to at least refer to the requirement to set out proposed mitigation within the WSI (perhaps as part 1 of the WSI)? Could CDC provide exact proposed wording for requirement 12 in the event that agreement cannot be reached with the applicant?	The Applicant understands this query to relate to CDC's request that, in addition to a WSI for each stage, there should also be a final Archaeological Mitigation Strategy. Requirement 12(2) of the Draft DCO secures the Outline AMS [Document Reference 6.3.8.6 Revision 3] by stipulating that the written scheme of investigation for each development phase must be substantially in accordance with the Outline AMS [Document Reference 6.3.8.6 Revision 3]. Requirement 12 also provides approval rights to the relevant local planning authority of a written scheme of investigation for each phase of development. To confirm, the Applicant's position is therefore that appropriate archaeological mitigation, tailored to each phase of development, is secured and implemented at each stage of the authorised development. This approach allows mitigation measures to be refined as further information becomes available, while remaining substantially in accordance with the outline strategy. It is not clear what additional benefit would be delivered by requiring submission of a final

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			Archaeological Mitigation Strategy, over and above the existing requirement for approved WSIs that must substantially accord with the outline strategy. The proposed approach also reflects the staged nature of the authorised development. Requiring final mitigation measures to be fixed in advance of phase-specific investigation risks reducing, rather than improving, the effectiveness of archaeological mitigation. In response to the specific question as to whether "Requirement 12 [should] be amended to at least refer to the requirement to set out proposed mitigation within the WSI". The Applicant does not consider this is necessary: the outline AMS is clear that the WSIs would in turn include the relevant and appropriate mitigation. The Applicant would note that the drafting of Requirement 12 is identical to Requirement 13 of the Peartree Hill Solar Farm Order 2026. CDC in [REP5-058] suggests that "CDC does not see this as an additional document but rather an update to the outline Archaeological Mitigation Strategy". With respect, this is a distinction without a difference: in effect, CDC is suggesting that the Applicant should update and provide a separate document in circumstances where specific and appropriate mitigation, subject to local authority approval, is already secured via a different document.
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			<u>CDC’s reply</u> <u>CDC maintains its position, as set out in EXQ2 2.5.1 [REP5-058] and its Response to ExQ3 [REP6-091], Table 1, Requirement 12.</u>
9. Schedule 14 – Protective Provisions			
DCO.9.1	All Statutory Undertakers, CDC, NLC and the applicant	General The ExA notes that negotiation is ongoing on Protective Provisions (PPs) and on that basis is not proposing to set out preferred wording at this present time. All parties (including Statutory Undertakers) who are negotiating protective provisions should set out their preferred wording, identifying areas of disagreement on the applicant’s proposed wording where agreement has not been reached. This should be provided by deadline 6 and updated at deadline 8.	The Applicant's position on the Protective Provisions is as set out in Justification for the Applicants Preferred Protective Provisions [REP5-039] submitted at Deadline 5. Where appropriate, and where the Applicant considers that further agreement is possible, it continues to engage in good faith negotiations. The Applicant will provide its final position at Deadline 8 as requested, following any further comments from Statutory Undertakers, CDC, NLC. The Applicant will also be updating the Justification for the Applicant’s Preferred Protective Provisions [Document Reference 8.23 Revision 3] at Deadline 6 to reflect any progress in negotiations.
DCO.9.2	CDC, NLC and the Applicant	Part 10 Could NLC and CDC please provide representations on the protective provisions at part 10 of schedule 14 to the dDCO [REP5-003]? The applicant is advised that protective provisions should be drafted to apply to ‘the highway authorities’ as opposed to just CDC. This will ensure consistency of approach across administrative boundaries. For that reason, NLC should review the protective provisions	Following ongoing discussions with CDC, the Applicant at Deadline 5 inserted Protective Provisions for the benefit of CDC as local highway authority. The Applicant continues to negotiate with CDC in relation to these. The PPs are based on those included for the protection of local highway authorities in the Northampton Gateway Rail Freight Interchange Order 2019 (SI 2019/1358) and the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (SI 2016/17), though amended

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		in conjunction with the applicant and CDC. The ExA also suggests that these protective provisions should serve to provide necessary functions from Article 18 (now deleted) of the originally submitted dDCO [AS-002].	to better suit CDC’s circumstances and the terms of its own proposed Framework Agreement. In relation to the request that this be extended to NLC, the Applicant received a request from NLC ahead of Deadline 6 seeking equivalent protection. The Applicant has no objection to this request and has therefore amended the Draft DCO [Document Reference 3.1, Revision 9], submitted at Deadline 6, to extend the benefit of those provisions to NLC. The Applicant notes that the highway authority protective provisions in Part 10 of Schedule 14 to the Draft DCO are not yet agreed. The Applicant received CDC’s latest comments on the drafting of these provisions on 17 September 2026 and is currently engaging with the parties with a view to reaching an agreement before the close of examination. The Applicant intends to provide a substantive response to CDC’s comments shortly after Deadline 6. Accordingly, the Applicant anticipates setting out its full position on the highway protective provisions in the Justification for the Applicant’s Preferred Protective Provisions [Document Reference 8.23, Revision 3], to be updated and submitted at Deadline 8. The Applicant is hopeful that, by that time, the provisions will have been agreed between the parties. In relation to the (now deleted) article 18, which previously made provision for agreements with street authorities, the Protective Provisions secure the
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			appropriate mechanisms for approvals, payments, and commuted sums (which covers the agreements that would previously have fallen within the rubric of article 18). <u>CDC’s reply</u> <u>CDC provided its comments on the Applicant’s proposed LHA PPs on 17 September 2026 and awaits the Applicant’s comments on the same.</u>
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