

Springwell Solar Farm

North Kesteven District Council – Deadline 4 Submissions

1. ExA's Second Written Questions (issued 2 September 2025)

The Council's response to the ExA2 questions is set out in the table below:

ExQ2	Question to NKDC:	NKDC Response
1. General, Cross- topic and Need		
Q2.1.2	<p>Cumulative Effects</p> <p>An action point from Issue Specific Hearing (ISH) 3 [EV6-008] [EV6-009] was for the Applicant to provide an update to the Interrelationships with other Nationally Significant Infrastructure Projects and Major Development Schemes Report [REP1-068] at either Deadline (D) 3 or 4. Further, the Applicant has provided a revised Cumulative Effects Assessment [REP3-014] that takes into account the published EIA Scoping Report for the proposed NGNS.</p> <p>a. Applicant, please provide the updated interrelationships report.</p> <p>b. Local Authorities, do you accept the findings of the revised cumulative effects assessment? If not, please set out fully why you disagree.</p>	<p>NKDC find the revised cumulative effects assessment to be broadly acceptable, however, the Council notes that traffic and transport have not been included in Table 16.4 of the Cumulative Effects Assessment [REP3-014]. Paragraph 16.4.48 explains that a Traffic and Transport technical note has been produced to summarise the cumulative effects with the NGNS at Appendix 3 to the applicant's Response to Action Points [REF3-075] and will be incorporated into the ES Cumulative Effects Assessment chapter at Deadline 4.</p> <p>The Council's Scoping Opinion can be found on it's website: 25/0699/EIASCO EIA Scoping Opinion Request for Navenby Substation (24/1080/EIASCR) Land Off Heath Lane Navenby Lincoln.</p> <p>The Council highlighted that Traffic and Transport could not be scoped out of the ES for the NGNS on the basis that insufficient estimates had been provided by the National Grid.</p> <p>The Council defers to LCC as local highway authority regarding the likely impacts on the highway network and on highway safety, however, it would point out that information on the likely traffic generation from the NGNS and its impacts has not been released as public information by National Grid and is unlikely to be available until the planning application is submitted in early</p>

		2026. The National Grid website confirms that the planning application submission has been put back from autumn 2025 to early 2026 (Navenby Substation National Grid). The applicant's submissions must therefore be read on this basis.
3. Air Quality		
Q2.3.1	<p>Revised Plume Assessment</p> <p>Following discussions at ISH3 [EV6-002] [EV6-003] the Applicant has undertaken an additional Plume Assessment [REP3-077] that incorporates atmospheric dispersion modelling and considers particulate matter. The UK Health Security Agency has set out [AS-028] that it has overcome its concerns. Confirm whether you are content with the methodology and assumptions adopted, as well as the overall findings of the revised assessment</p>	NKDC do not have the in-house expertise to comment on this topic and would defer to the views of the UKHSA.
4. Biodiversity		
Q2.4.3	<p>Ecological Steering Group</p> <p>The ExA note that terms of reference for the ecological steering group (ESG) have been included in the updated Outline Landscape and Environmental Management Plan (oLEMP) [REP3-037].</p> <p>a. Applicant, confirm the funding mechanism for the ESG and, if relevant, submit a signed section 106 of the Town and Country Planning Act 1990 (s106) agreement into the examination.</p> <p>b. Lincolnshire County Council (LCC) and North Kesteven District Council (NKDC), are you content with the Applicant's proposed terms of reference for the ESG?</p>	<p>b. The Council has provided a detailed response in relation to the ESG, its terms of reference, roles, and funding as a separate appended document. The Council's position remains that one of the primary functions of the ESG ought to be providing a monitoring and auditing framework of the applicant's commitments to BNG delivery, and for which they are seeking a positive weight in the planning balance through their commitments in draft Requirement 8 (namely 31.66% biodiversity net gain for area-based habitat units, 20.68% biodiversity net gain for hedgerow units and 10% biodiversity net gain for watercourse units).</p> <p>A stated purpose of the revised oLEMP [REP3-037] at paragraph 7.2.1 is 'to monitor the progress and implementation of the detailed LEMP(s), the aim of which is to achieve the biodiversity mitigation and enhancement as laid out in the oLEMP'.</p>

		<p>As we set out in our separate statement, we do not agree with the applicant's proposed funding of the ESG (the current draft of the s106 is silent on this matter) which as currently proposed would be a post-consent matter ergo with no mandatory recourse at that point for the applicant to pay the reasonable fees for the set up and operation of the ESG. This represents an unacceptable financial risk to the Council.</p> <p>We set out two fee proposals/estimates (i) for the operation of the ESG and (ii) for undertaking BNG monitoring.</p> <p>The latter will fall solely to the District Council. A key issue that remains unresolved at this time (and which the Council cannot therefore confirm common ground with the applicant) is the applicant's apparent unwillingness to accept that the monitoring of BNG carries a financial liability that is very clearly established in published guidance, is being adopted across TCPA schemes (we include an example of a recently completed BNG monitoring Unilateral Undertaking and Appeal Decision for a TCPA solar scheme known as Little Hale Fen) and, which critically, the Council has been able to cost in this case.</p> <p>As above the applicant is seeking material planning weight stemming from an exceedance (except watercourse units) of BNG minimum percentages, has prepared all associated BNG evidence in line with Natural England metric/s and Environment Act requirements yet is so far not willing to commit to monitoring obligations by way of payment of a monitoring fee.</p> <p>We will continue to work with the applicant on this matter once they have reviewed the fee proposal submitted under separate cover. The Council's position is that the negotiated outcome should focus on maximising the BNG monitoring fee (rather than the ESG funding) as the former will become a mandatory requirement for NSIPs and is currently a legal requirement for TCPA schemes.</p>
--	--	--

5. Climate Change		
Q2.5.1	<p>Ongoing Emissions and Generation Data</p> <p>NKDC maintains [REP3-080] that ongoing, publicly available emissions/ generation data is published annually to encourage transparency of the development. Has the requirement for this been secured in the DCO of any granted solar farm project?</p>	<p>NKDC acknowledge that the publication of emissions/generation data has not been secured as a requirement within other solar farm DCOs within Lincolnshire. However, the Council notes that medium and large sized companies are required to report information on greenhouse gas emissions in their Directors' Reports under the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008. This is referenced in the government Environmental Reporting Guidelines 2019: Environmental reporting guidelines: including Streamlined Energy and Carbon Reporting requirements - GOV.UK</p> <p>The provision of site-specific emissions information would be of beneficial use to the Council, other organisations and the general public to better understand the cumulative impacts and generation capacity arising from the increasing number of solar farm developments located within the District.</p>
7. Cultural Heritage		
Q2.7.5	<p>Temple Bruer - Heritage Impact Review</p> <p>At D3 an Interested Party (IP) [REP3-083] submitted an independent report on the impact of the Proposed Development on the Temple Bruer Preceptory Church Tower Grade I Listed Building and Scheduled Monument.</p> <p>a. Applicant, provide a detailed response to the findings and conclusions of the report including the following points that are raised:</p> <ul style="list-style-type: none"> • The extent to which the former Knights Templar Estate boundary forms the setting of the heritage assets and contributes to the significance of these assets. 	<p>b. The submission of the independent report makes interesting reading when considering the wider landscape setting and landholdings of the Knights Templar, in association with the Temple Bruer estate. Kinetic views of heritage assets remain of importance to the experience of heritage assets, and the reports demonstrates the solar panels impacting views towards the scheduled monument.</p> <p>The landholdings of the Knights Templar demonstrate a greater setting of designated heritage assets at Temple Bruer, but this setting has been subject to change.</p> <p>NKDC consider that the additional information should be considered and addressed by the applicant. However, the Council's position having reviewed REP3-083 is that this additional environmental information does not need lead</p>

	<ul style="list-style-type: none"> • The impact on kinetic views of the Preceptory along Warren Lane and how intervisibility between the Preceptory and the Proposed Development in this location has been considered. b. LCC, NKDC and HE, the ExA note that in the relevant SoCGs with the Applicant, it is agreed that these assets can be scoped out of the ES. Does the independent report submitted at D3 highlight any issues that would change the position of the Councils and/or Historic England (HE)? 	to any change to the Council's position nor to the scope of the ES ie impacts on the Temple Bruer preceptory can remain scoped out.
8. Draft Development Consent Order (DCO)		
Q2.8.2	<p>Articles 40 and 41</p> <p>Following discussions at ISH4 [EV7-006] [EV7-007] and a subsequent meeting between the parties, the Applicant has made changes to the oLEMP [REP3-037] and the oOEMP [REP3- 039], including the addition of a maintenance schedule. Confirm whether these alterations address your remaining concerns.</p>	<p>NKDC welcomes the additional provisions made at paragraph 5.3.20 of the oLEMP for replacement tree planting and section 2.10 of the oOEMP, including a maintenance schedule.</p> <p>The Council requests that the replacement tree size set out in paragraph 5.3.20 of the oLEMP is increased to at least a 12-14cm containerised root stock. This is in line with the requirements set out in Appendix B paragraph 1.2 of the adopted NKDC Tree Strategy (p31). The Tree Strategy can be viewed on the Council's website: Tree Strategy 2020</p>
Q2.8.4	<p>Requirement 3</p> <p>The Applicant has proposed a number of changes to R3 of the dDCO [REP3-005]. Do you consider such changes to be acceptable?</p>	NKDC consider the changes to be acceptable provided that no additional phasing options within the written scheme are introduced that were not included initially within the provisions for 'flexibility and optioneering' and agreed by the relevant authority.
10. Landscape and Visual Impact		
Q2.10.6	<p>Design Commitments</p> <p>The ExA note that following discussion with the Local Authorities, the Applicant has updated the Design Commitments [REP3-030] to include revised wording for</p>	NKDC has reviewed the changes made to the Design Commitments Rev 2, and these reflect discussions that have recently been held with the applicant. There are no further comments on commitments D17, D20, D25 and D26.

	commitments D17 and D20 as well as additional commitments D25 and D26. Are you content with the updates made?	
Q2.10.7	<p>Inter-Project Cumulative effects with National Grid Navenby Substation</p> <p>The ExA note that in ES Chapter 16 [REP3-014] the Applicant states that “at a meeting between the Applicant’s landscape consultant, LCC and NKDC on 08 July 2025, it was agreed that additional hedgerow planting alongside the A15 north of Gorse Hill Lane (as initially suggested by both LPAs) was unlikely to result in a material difference to the overall significance of effect on views from the A15. It was agreed by all parties that this additional planting was not essential.” Do LCC and NKDC now consider this matter agreed?</p>	Yes, it was agreed that this additional planting was not essential. Therefore, the Council considers that the matter is now agreed.
12. Population		
Q2.12.2	<p>Loss of Agricultural Jobs and Operations</p> <p>NKDC are asked to provide comment on the Applicant’s response to paragraph 20.17 of its Local Impact Report, as set out in the Applicant’s D2 submission [REP2-023] (Table 2-10). In particular, the ExA would like to understand NKDC’s position on:</p> <p>a. Whether sufficient information has been provided by the Applicant in relation to quantifying the loss of agricultural jobs associated with land-use change.</p> <p>b. Whether the Council agree with the Applicant’s assessment in the ES that change in employment and</p>	<p>a. NKDC considers that the information is not as comprehensive as it could be but the impact on jobs is likely to be small.</p> <p>b. NKDC considers that a slight adverse is probably a bit low as there will be a local impact on the agricultural economy.</p>

	agricultural land would result in a slight adverse (not significant) effect on the agricultural economy.	
Q2.12.3	<p>Effects on Tourism A</p> <p>Action Point 14 from ISH3 was ‘Applicant and NKDC to hold further discussions in relation to the data used to assess tourism effects and monitoring measures that could be put in place to understand the impact on tourism related to the use of PRow and stepping out network.’</p> <p>The ExA understand that a meeting was due to take place between the Applicant and NKDC on 13 August 2025. Both Parties are asked to provide an update on discussions and set out their position in relation to the following matters:</p> <p>a. What data should be used to assess possible tourism effects related to the use of PRow and stepping out network?</p> <p>b. What measures can be put in place to monitor and mitigate the impact of the Proposed Development on tourism related to the use of PRow and stepping out network in construction and operation?</p>	<p>NKDC attended the meeting on 13 August 2025 at which a useful discussion was held.</p> <p>The Council agrees with the notes of the meeting provide by email on 19 August 2025 and which will be included within the SOCG.</p> <ol style="list-style-type: none"> The Council acknowledges the difficulties in utilising the existing data to assess possible tourism effects related to use of the PRow and Stepping Out network. The data is limited to STEAM data, monitoring of Stepping Out walks and an annual Tourism Survey carried out by the Council. The Council suggested that new monitoring points could be provided on both the existing circular Stepping Out walks within the site and on the new permissive paths that would be provided as part of the solar farm development. The new monitoring points should be secured within the PRowMP or oLEMP and the funding secured via the s106 agreement. The data would help to establish a new baseline over the lifetime of the solar farm and would be helpful to the Council to infer usage of routes, whether new routes are being used and whether circular routes my see change. The additional data could be used alongside the annual Stepping Out walks monitoring to promote, change or articulate the network to visitors. <p>‘Physical’ measures to help mitigate impacts could include the provision of seating and interpretation boards along the Stepping Out walks route in Springwell East; the latter incorporating publicity of Stepping Out walks routes elsewhere in North Kesteven District.</p> <p>The Council is concerned that there will be a cumulative effect with other solar developments in the District (Heckington Fen, Beacon Fen, Fosse Green and</p>

		Leoda solar farms) which are on an unprecedented scale and tend to form a concentrated cluster around grid connection points, on walking related tourism within the District. The Council promotes the District for easy / moderate walking as part of its marketing strategy. This is reflected in the Council's adopted Tourism Strategy.
15. Other Matters, including Waste		
Q2.15.2	Working Hours The SoCG [REP3-059] notes that NKDC wish to see a change to the proposed working hours to 7am to 6pm Monday through to Friday and 8am to 1pm on Saturdays. Provide further justification for this request and set out if there is any precedence for such hours in made DCOs for solar farm projects.	The Council advises the proposed hours for all construction works within the District. This mitigates against noise outside hours which are considered as sensitive as per the World Health Organisation (Night Noise Guidelines for Europe). The Council acknowledges that other consented Lincolnshire solar schemes have not adopted the same hours, however, as they are located in different local authority areas, they may have different local working hours.

2. NKDC's comments on ExA's suggested changes to the draft Development Consent Order (issued 2 September 2025)

The Council welcomes and agrees with the proposed additional requirements as set out the Schedule of Proposed Changes.

3. NKDC's comments on documents submitted at Deadline 3 not already addressed in the Council's responses to ExQ2

Applicant's Oral Submission Summary [REF3-075]:

- ISH3. 5.1 - the ExA's proposed additional requirement would overcome the Council's concerns regarding replacement of solar panels during the lifetime of the development.
- ISH3, 9.3 - the Council maintains its concerns that funding for decommissioning has not been sufficiently covered within the draft DCO.
- ISH4, 3.4 - the ExA's proposed additional pre-commencement requirement restricting commencement of the solar farm until planning permission for the NGNS has been granted would overcome the Council's concerns.

Applicant's submissions in relation to ecology: The Council's consultants, AECOM, have produced a comprehensive set of comments in the attached note (dated 26 August 2025) in response to the updates submitted at Deadline 3. The note agrees where the submission addresses outstanding matters acceptably and the matters which require further clarification.

Applicant's submissions in relation to above ground heritage: The Council has considered Appendix 9.1: Archaeological Desk-based Assessment and Stage 1 Setting Assessment [REP3-024] and makes the following comments in relation to:

- Applicant's Action point 6 – the Council is satisfied that there has been further scrutiny of the effects upon the CA's at Scopwick and Blankley and have no further comment.
- Applicant's Action point 7 – as no further information appears to have been included on the effects of the settings of Scopwick Mill and Thompson's Bottom farmhouse within Annex 14 of the revised ES Vol.3, Appendix 9.1, the Council has no comments.
- Applicant's Action Point 8 – the Council is satisfied that the farmsteads have been well considered, including consideration of the Greater Lincolnshire Farmsteads Character Statement. Overall, there has been a greater consideration of setting and the impact that this has on the special interest of the farmsteads as a group.
- Applicant's Action Point 9 – see response to Action Point 8.

Applicant's SOCG in respect of soils and agriculture: The Council's consultant, Landscape, has provided the following comments in relation to the Soils section of the SOCG with NKDC:

- 17.2 - food security is a cumulative issue
- 17.3 - the stated improvements in soil quality will be temporary and would diminish once the land is returned to arable agriculture, so only limited weight can be given to these temporary benefits compared to the loss of food production over 40 years
- 17.5 - the development will not avoid the take up of BMV agricultural land altogether. In fact, the area of BMV is over 40%, which is still very large.
- 17.10 - there should be some indication of the long-term sustainability of the soil health benefits post decommissioning and what guarantees are offered that the benefits will be retained.

NKDC RESPONSE to ExQ2.4.3

Environmental Steering Group

The Council is not satisfied that the proposed wording for the remit of the ESG as set out in section 7.2 of the oLEMP is acceptable. The Council raises the following points of disagreement:

- Paragraph 7.2.1 does not explicitly refer to BNG monitoring in the proposed remit of the ESG. The Council notes that BNG monitoring is mentioned at paragraph 7.3.4, however, the Council considers that if BNG monitoring is to be a key function of the ESG then it should be explicitly listed as a bullet point within paragraph 7.2.1 and therefore forms part of the reasonable costs referred to in paragraph 7.2.8.
- Paragraph 7.2.5 specifically names the Lincolnshire Wildlife Trust as the only named local environmental stakeholder organisation to attend the ESG. The Council recommends that LWT is replaced with 'local environmental stakeholder organisations' to provide the opportunity for a broader representation from local organisations which may include the LWT but isn't restricted to that organisation.
- Paragraph 7.2.7 restricts the meetings to an annual basis. The Council considers that in the initial 10 years after establishment of the group; the frequency should be two meetings per year (i.e. every 6 months). This is to reflect the need to respond promptly to any potential establishment problems that might arise during the initial years of establishment. It also reflects the higher frequency of monitoring proposed by the applicant as set out in paragraph 7.3.4 (ie in years 1, 2, 3, 5 and 10). From year 11 onwards, the frequency of meetings could be reduced to one meeting per year.
- Provision should be made that the applicant will take on board the feedback and suggestions from the group where reasonable and practicable.
- Paragraph 7.2.8 refers to the applicant meeting the reasonable costs of attendees related to 'the attendance at meetings and reviewing supplied material', which is welcomed in principle. However, the Council considers that there could be scope for disagreement over the amount of time estimated for these activities and suggests that an indication of time requirements should be included. Discussions with the applicant on this matter have not yet delivered an acceptable outcome for the Council. A s106 Agreement is the usual route for securing such a payment however we note that the applicant disagrees with the principle of fixing payment for these activities via a s106, and this is reflected in the absence of such in the current draft.
- As a minimum, the Council suggests that it should reflect the following pattern:
 - **Years 1-10** (two meetings a year) comprising:
 - 1 day reading reports / meeting preparation
 - 1 day travelling to and attending meetings (site-based meetings during years 1, 2, 3, 5 and 10)
 - 1 day delivering follow up actions
 - This would equate to officer time of 6 days per year (60 days in total over 10 years)
 - Estimated cost of **£37,500** based on £100 hourly rate
 - **Years 11 onwards** (one meeting a year) comprising:
 - 1 day reading reports / meeting preparation
 - 1 day travelling to and attending meetings (site-based meetings during years 15, 20, 25 and 30)

- 1 day delivering follow up actions
- This would equate to officer time of 3 days per year (90 days in total over 30 years)
- Estimated cost of **£93,000** based on £100 hourly rate

Biodiversity Net Gain

The Council continues to require independent quality assurance auditing of the BNG provision over and above that proposed by the applicant. The rationale for BNG monitoring is based on adopted CLLP policy 61 which states: “Biodiversity Net Gain - the following part of the policy applies unless, and until, subsequently superseded, in whole or part, by national regulations or Government policy associated with the delivery of mandatory biodiversity net gain arising from the Environment Act 2021. Where conflict between the policy below and the provisions of Government regulations or national policy arises, then the latter should prevail.”

Paragraph 2.10.82 of the draft EN-3 then states that:

‘For projects in England, applicants should consider enhancement, management, and monitoring of biodiversity in line with the ambition set out in the Environmental Improvement Plan and any relevant measures and targets, including statutory targets set under the Environment Act 2021 or elsewhere’.

Paragraph 4.6.21 of the draft EN-1 states that the Secretary of State should give appropriate weight to environmental and biodiversity net gain, although any weight given to gains provided to meet a legal requirement (for example under the Environment Act 2021) is likely to be limited.

The NPPG is clear that significant gains should be adequately secured (via condition or obligation so a s106 would be most appropriate here) and that they must be monitored and breaches enforced to ensure effective delivery. This is further supported by the “Biodiversity net gain: what local planning authorities should do” guidance ([Biodiversity net gain: what local planning authorities should do - GOV.UK](#)) which is clear that it is the LPAs responsibility to monitor that landowners are meeting obligations and enforce where appropriate.

Significant gains are defined nationally here [Make on-site biodiversity gains as a developer - GOV.UK](#) as:

‘What counts as a significant enhancement will vary depending on the scale of development and existing habitat, but these would normally be:

- habitats of medium or higher distinctiveness in the biodiversity metric
- habitats of low distinctiveness which create a large number of biodiversity units relative to the biodiversity value of the site before development
- habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development
- areas of habitat creation or enhancement which are significant in area relative to the size of the development
- enhancements to habitat condition, for example from poor or moderate to good ‘

Examples of significant enhancements include creating a wildflower meadow or a nature park.

More locally, significant gains are described in the Greater Lincolnshire Nature Partnership ‘Biodiversity Net Gain – Guidance for Planners, Ecologists and Applicants’ ([Central Lincolnshire BNG Guidance](#) page 31) as

- ‘Criteria 1: Onsite creation, improvements in condition, or retention, of habitats assigned medium distinctiveness or higher in the Statutory/Small site Biodiversity Metric are considered significant.
- Criteria 2: Onsite creation or improvement in condition of low distinctiveness habitats, are considered significant, where either: A. the combined number of units delivered is equal to or greater than 0.5; and/or B. the combined number of low distinctiveness units is equivalent to 10% or more of the baseline biodiversity unit value of the site’.

On the basis of the above national and local definitions, the Springwell Solar Farm development will deliver a high quantity of significant gains.

The NPPG is also clear (Paragraph: 028 Reference ID: 74-028-20240214) that LPAs can and should where significant onsite gains are secured on a development, normally through a s106 agreement, charge a monitoring fee through a s106 agreement *“to cover the cost of monitoring and reporting on delivery of that section 106 agreement”*

The role of the LPA is not to conduct monitoring surveys but rather review the reports submitted and conduct quality assurance site visits to ensure the applicant is complying and when to take enforcement action. This is resource intensive.

Biodiversity Net Gain Monitoring Fee Calculation

In light of the above policy justification and following the discussions on BNG monitoring with the applicant and the submission of the updated oLEMP, the Council has revisited its proposed BNG monitoring fee estimate.

The proposed BNG monitoring costs can be summarised as follows:

	Retained	Created	Enhanced	Total	Monitoring cost (20% sample) at years 2, 5, 10, 15, 20, 25 and 30
Solar arrays*		299.6ha	294.25ha	593.85ha	£11,886.93
Habitat	50.24ha	171.6ha	97.33ha	319.17ha	(including AI support) £62,031
Hedgerow	28.8km	15.53km	0.96km	45.29km	£6,518
Watercourse	-	-	-	-	NKDC cannot monitor in-house

*No monitoring fee would be required only if the applicant reduced the target condition for grassland under solar arrays to ‘poor’ rather than ‘fairly poor modified grassland’ and made up any deficits elsewhere.

Area Habitat Monitoring

The above calculation is based on the applicant’s current submission and the % BNG proposed for delivery across the three habitat types. The Council’s hourly rate for monitoring is currently £57.35 + a 2% inflation rate per year.

Area habitat monitoring will be required across a total of 33 hours on years 2, 5, 10, 15, 20, 25, 30. This is necessary for the LPA to compare the applicant’s monitoring submissions to AI mapping (costed separately) to determine a 20% sampling strategy of

the site as well as to provide a written response for the ESG for discussion (covered by ESG costs).

There is then a proportionate cost for software, equipment, memberships, staff training, expected travel/mileage etc over the lifetime of the project which is divided out over the expected number of applications to be submitted in the respective monitoring years (a 5% inflation rate is applied to these items).

Then a 10% risk applied should the Council need to conduct additional monitoring or spend a greater number of hours monitoring due to discrepancies.

The overall 33 hour estimate is based on scaling up the Central Lincolnshire BNG monitoring calculator to cover the 20% of all (non under-solar) significant habitats which is 64ha in total, across each monitoring period to be surveyed.

This gives an overall habitats fee of **£30,764.57**.

AI Mapping Tool

AI background mapping is required to support the overall monitoring process. Using the LandApp tool as an example (currently £1.40 per hectare; without subscription fee) across the entire DCO site boundary and then applying an assumed 5% inflation rate for each monitoring year, gives an overall estimate of **£31,267.17** (as above without subscription to the service itself). This site-wide assessment is required to ensure that the overall % BNG target for the site is monitored and not just the significant gains. AI mapping then informs the 20% significant habitat selection/sampling selection.

Hedgerows

As above and assuming a 20% sampling strategy (which totals 9km) with an additional 7.5 hours per monitoring year (at the same frequency as the area habitat monitoring) gives a hedgerow fee estimate of **£6,518.80** (there are no additional software costs etc as these are covered by the area breakdown).

Under-panel monitoring

As noted in the above table, no monitoring fee would be required only if the applicant reduced the target condition for grassland under solar arrays to 'poor' rather than 'fairly poor modified grassland' and made up any BNG deficits elsewhere.

If the applicant maintains their current proposed condition score of 'fairly poor' for habitat under the solar panels the Council would suggest a sample rate of 5%, mindful of the scale of proposed coverage, which we estimate at an additional 12 hours per each monitoring year. Over the 593ha area, at the suggested 5% sampling rate, this would be an additional fee of **£11,886.93** (the additional software costs etc have been removed as they are already covered by the area breakdown).

This would result in a total estimate of **£80,435** across the entire 30-year BNG monitoring period based on a 20% sampling rate during specific years and including the use of an AI mapping tool (eg Landapp). As per the above table this can be broken down

by staff time to conduct the site visits (**£11,886 for under solar habitat monitoring, £30,764 for habitat monitoring and £6,518 for hedgerow monitoring**) and the cost of the AI mapping tool (**£31,267** including inflation @5%).

If the applicant chose to reduce the target for land under solar arrays to 'poor', the Council estimates its costs for on-site monitoring to be **£68,549** over a 30-year period for BNG monitoring (as the habitat below the solar arrays would not require monitoring).

In conclusion, the Council considers that the applicant is pursuing a selective approach to the provision of BNG as part of the DCO; that is, seeking that it is attributed weight in the planning balance but not following through with a robust monitoring regime that includes local authority monitoring as required through the mandatory BNG process to ensure that it is successfully delivered on the ground. We do not support such an approach in the interests of fairness and reasonableness.

Whilst draft EN-1 confirms that additional weight should not be applied in the planning balance for compliance with the minimum BNG %, we are aware that 'fixing' a higher % BNG through Requirement, as is the case here, is capable of attaining additional weight (see Secretary of State decision letter paragraph 4.5 (b), and the ExA's Report and Recommendation paragraphs 3.2.82, 5.2.5, 5.3.3 and 8.2.14 of EN010123 Heckington Fen solar farm).

We understand that the applicant is seeking the same general approach here and therefore the Council's expectation is that the same principles relating to BNG monitoring must also apply to ensure there can be formal accountability and auditing of the applicant's BNG delivery (if additional planning weighting is to be applied); through appropriate resourcing that is consistent with the mechanism applied for TCPA schemes.

The applicant has not committed to a BNG monitoring fee via a s106 Agreement and therefore we assume that their suggestion of reimbursing the costs of the ESG/BNG monitoring would be via a post-decision Planning Performance Agreement (PPA). This is not an acceptable proposal for the Council given that PPAs are discretionary and can be terminated with relative ease, and as above the NPPG guidance at Paragraph: 028 Reference ID: 74-028-20240214 recognises that a s106 Agreement (potentially a UU) is the appropriate vehicle for this. Securing a BNG monitoring fee through a PPA (which we also infer) is not expressly supported by the quoted policy and guidance.

The Council considers that the applicant should meet the Council's costs for on-site BNG monitoring as set out in the table above on top of the costs for attendance at ESG meetings and desktop review of the applicant's monitoring information as set out in section 7.2 of the oLEMP.

The overall total ESG and BNG monitoring costs charged by the Council would be:

- ESG – £130,500
- BNG monitoring costs (non-solar array habitat and hedgerows only) - £68,549 (or £80,435 applying the current 'fairly poor' grassland target under solar panels)

- **Total - £199,049/£210,935**

The Council refers to a recent TCPA solar farm appeal decision at Little Hale Fen in North Kesteven where the applicant submitted a Unilateral Undertaking to cover BNG monitoring (redacted copy attached).

The UU, and the principle of seeking such, is referred to in the appeal decision (attached) at paragraphs 46 and 47. Those paragraphs cross reference the guidance prepared by the Central Lincolnshire authorities indicating that monitoring fees should be provided by applicants in order to enable the Central Lincolnshire Ecologist to review monitoring submissions and conduct quality assurance site visits to ensure biodiversity gains. Extracted pages 1, 33 and 34 of that guidance ('Biodiversity Net Gain Guidance for Planners, Ecologists & Applicants - May 2024') are attached.

The Inspector notes in that case that the monitoring fee for this activity would be £7,498, and is the amount secured within the s106 legal agreement, and having done so the proposals aligned with the aims of Policies S60, S61, and S66 of the CLLP. The Inspector also agreed that this approach met the requirements for the use of planning obligations at Paragraph 58 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as amended.

We would highlight that the fee secured by s106 Agreement in that case, £7,498, over an overall site area of 82ha, equates to a value of £91.43 per ha. We accept that each case has to be assessed and costed on its own merits and basis however the corresponding fee per ha for BNG monitoring alone at Springwell solar farm would be a lesser value of £53.55 per ha assuming that the applicant reduces the target condition for grassland under solar arrays to 'poor' rather than 'fairly poor modified grassland' and made up any deficits elsewhere. Even the higher rate (£62.83 per ha) assuming the current grassland target condition is 31% lower than the TCPA example and this reflects the economies of scale associated with an NSIP project, the proposed use of an AI mapping tool and the selective sampling approach referred to above.

In summary, the Council cannot support the applicant's current approach to ESG/BNG resourcing for the above reasons. We welcome ongoing dialogue with the applicant on this matter however we will have no option other than to conclude that this is a matter of disagreement between parties in due course should a resolution not be forthcoming.



Appeal Decision

Site visit made on 29 July 2025

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Appeal Ref: APP/R2520/W/25/3363027

Land South of Little Hale Drove, Agricultural Land at Little Hale Fen, NG34 9BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by AGR Solar 3 Limited against the decision of North Kesteven District Council.
 - The application Ref is 23/1021/FUL, made on 25 August 2023, and refused on 7 November 2024.
 - The development proposed is described as '*Proposed Development of a Photovoltaic Solar Array, Grid Connection, Access Improvements and Ancillary Development on Land at Little Hale Fen, North Kesteven, Lincolnshire.*'
-

Decision

1. The appeal is allowed and planning permission is granted for Proposed Development of a Photovoltaic Solar Array, Grid Connection, Access Improvements and Ancillary Development at Little Hale Fen, North Kesteven, Lincolnshire at Land South of Little Hale Drove, Agricultural Land at Little Hale Fen, NG34 9BG in accordance with the terms of the planning application, Ref 23/1021/FUL, subject to the conditions in Appendix A.

Preliminary Matters

2. The original proposal formed a 'cross boundary' scheme; with a concurrent application was submitted to Boston Borough Council for the works proposed on land within their jurisdiction. These works comprised of the grid connection corridor to Bicker Fen Substation on land east of the South Forty Foot Drain. Boston Borough Council granted full planning permission for the development on 19/02/2025.¹
3. When received by the Planning Inspectorate, the appeal was arranged to proceed by the Hearing procedure. Upon appointment I reviewed the submitted evidence, which includes all the appeal and application paperwork and the representations made by interested parties. The outcome of this review was that I considered the cases of all parties could be fairly considered by means of written representation, and therefore under s319a TCPA, the procedure was changed to be determined by written representations.
4. The Local Planning Authority, North Kesteven District Council (herein the Council) and the Appellant, have submitted a document called '*Main Statement of Common Ground*' dated March 2025 (herein SOCG). I am grateful for the

¹ Council's Statement of Case, page 3, paragraph 1.4

main parties having agreed this in good time and supporting the appeal process by narrowing the issues between them.

Background and Main Issue

5. The Council and the Appellant agree that the entirety of the main solar park site is within Subgrade 3a (96.1%), with a smaller amount (3.9%) being Grade 2. This means that the total site comprises Best and Most Agricultural Land (BMVAL) for planning policy purposes.
6. The main issue is whether or not the use of the agricultural land in question is justified in this case.

Planning Policy Context

Adopted Development Plan

7. The adopted development plan for the area is the *Central Lincolnshire Local Plan*, adopted 2023, (CLLP). In particular, the Council cites the following policies in their decision notice:
8. Policy S14 of the CLLP sets out that proposals for solar thermal or photovoltaics panels and associated infrastructure are under a presumption in favour of permission unless:
 - there is clear and demonstrable significant harm arising; or
 - the proposal is (following a site specific soil assessment) to take place on Best and Most Versatile (BMV) agricultural land and does not meet the requirements of policy S67; or
 - the land is allocated for another purposes within the Central Lincolnshire Local Plan, or other statutory based document, and the proposals is not compatible with such other allocation.
9. Policy S16 of the CLLP informs wider energy infrastructure and provides general support to schemes that would support the transition to a net zero carbon future. This includes schemes for battery energy storage and other electricity infrastructure. The policy requires such proposals to take all reasonable opportunities to mitigate any harm arising and to take care to select not only appropriate locations for such facilities, but also design solutions.
10. Policy S67 of the CLLP concerns the Best and Most Versatile Agricultural Land and states that proposals should protect the best and most versatile agricultural land so as to protect opportunities for food production and the continuance of the agricultural economy. With the exception of allocated sites, significant development resulting in the loss of the best and most versatile agricultural land will only be supported if:
 - a) the need for the proposed development has been clearly established and there is insufficient lower grade land available at that settlement (unless development of such lower grade land would be inconsistent with other sustainability consideration); and

- b) the benefits and/or sustainable considerations outweigh the need to protect such land when taking into account the economic and other benefits of the best and most versatile agricultural land; and
- c) the impacts of the proposal upon ongoing agricultural operations have been minimised through the use of appropriate design solutions; and
- d) where feasible, once any development which is supported has ceased its useful life the land will be restored to its former use (this condition will be secured by planning condition where appropriate).

11. Policy S61 of the CLLP requires that: *'The following part of the policy applies unless, and until, subsequently superseded, in whole or part, by national regulations or Government policy associated with the delivery of mandatory biodiversity net gain arising from the Environment Act 2021. Where conflict between the policy below and the provisions of Government regulations or national policy arises, then the latter should prevail.*

All qualifying development proposals must deliver at least a 10% measurable biodiversity net gain attributable to the development. The net gain for biodiversity should be calculated using Natural England's Biodiversity Metric.'

Policy or guidance material considerations

12. At a national level, the *National Planning Policy Framework* (the Framework) is an important material consideration. In particular:
13. Paragraph 168 sets out that when considering all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should not require applicants to demonstrate the overall need for renewable energy, and give significant weight to the benefits associated with renewable energy and the proposal's contribution to a net zero future.
14. Paragraph 187 indicates that planning decisions should contribute and enhance the natural and local environment by, amongst others, protecting and enhancing soils and recognising the wider benefits from natural capital and ecosystems services including the economic and other benefits of the BMVAL.
15. Paragraph 188 of the Framework indicates that plans should allocate land with the least environmental or amenity value, and at footnote 65 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
16. There are two Written Ministerial Statements; WMS UIN HCWS466 - *Solar and protecting our Food Security and Best and Most Versatile (BMV) Land* of May 2024), and WMS UIN HCWS488 - *Planning Update* of March 2015) which are material considerations. Whilst issued under previous administrations, they remain extant. More specifically, they reiterate the Policies of the Framework and set out the government's preference to utilise non-BMVAL over BMVAL and state:

'This means that due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as

*the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.*²

17. The National Policy Statements for *Energy (EN-1)* and *Renewable Energy Infrastructure (EN-3)*, whilst focussed on nationally significant infrastructure projects, are nonetheless material considerations. Of particular note is that solar farm developments fall within the category of Critical National Priority (CNP) infrastructure when considered under the NSIP regime.
18. The national Planning Practice Guidance (the Guidance) indicates at Paragraph ID: 5-013-20150327 in relation to large scale ground-mounted solar photovoltaic farms, planning decisions to consider:
 - encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;
 - where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

Reasons

Site Context

19. The appeal site is located circa 2.7km to the east of the villages of Helpringham and Little Hale, and circa 4km northwest of Donington. The area of the appeal site (excluding the section of the grid connection corridor in the neighbouring Boston Borough Council area) is around 81.76 hectares. The appeal site is comprised of arable farmland made up of large uniform fields used for arable crop production. It would be accessed from Little Hale Drove, which is an unclassified public highway comprising a single track two-way rural road. The grid connection cable route, forming part of the appeal site runs within Little Hale Drove.
20. The appeal site is not subject to any landscape, heritage or nature conservation designations and there are no listed buildings on, or adjacent to, the appeal site. A Public Right of Way, public footpath LHal/51, leads into the appeal site from Little Hale Drove. The footpath leads to, and terminates at, a collection of isolated non-residential farm buildings located to the immediate south of the southern boundary of the appeal site.
21. I understand that there are two consented solar farms located to the east of the appeal site which are currently under construction. A 49.9 MW solar farm at Vicarage Drove, Boston (permission reference B/21/0443) is approximately 600m to the east of the appeal site, located between South Forty Foot Drain and the Bicker Fen National Grid Substation. The second is a 49.9MW solar farm at Cowbridge Road, Bicker, Boston (permission reference B/22/0356) located approximately 2.5km to the east of the appeal site, located to the east of the Bicker Fen National Grid Substation.

The proposed scheme

² WMS UIN HCWS466 - *Solar and protecting our Food Security and Best and Most Versatile (BMV) Land* of May 2024)

22. The appeal scheme seeks planning permission for a photovoltaic (PV) solar array, battery energy storage system (BESS) compound, grid connection cable and ancillary development and is expected to generate sufficient electricity to power 14,000 homes. This would comprise the following main elements:
- i. Photovoltaic Solar Panels and associated support frames;
 - ii. 22 No. Solar Inverter/Transformer Stations;
 - iii. 38 No. Battery Storage Containers;
 - iv. 9 No. Battery Inverter/Transformer Stations
 - v. 1 No. Storage Containers;
 - vi. 1 No. Solar Switchgear Building;
 - vii. 1No. Battery Switchgear Building
 - viii. 1 No. Solar Control Room Building;
 - ix. 1 No. Battery Control Room Building;
 - x. c.6km grid connection cable to National Grid's Bicker Fen Substation (of which approximately 2.7km lies within NKDC);
 - xi. c.4.7km of new/resurfaced access tracks
 - xii. c.2.4km temporary construction haul road along Old Forty Foot Bank between Great Hale Drove and Little Hale Drove);
 - xiii. Ditch culverts for track crossings;
 - xiv. Perimeter deer/stock fencing; and
 - xv. c.40 No. 4m High CCTV cameras.
23. The appeal proposal would also include landscaping and ecological mitigation; including planting of hedgerows, native trees and shrubs, low maintenance pasture grassland and species rich grassland, as well as enhancement of the ditches within the appeal site. A Skylark Mitigation Area has been proposed to mitigate the effects on breeding skylark identified within the appeal site. The proposal would deliver Biodiversity Net Gain³ (BNG) in excess of 10%; with a net gain of 53% in area habitats and 329% net gain in linear habitats, as well as enhancements to the ditch network across the appeal site.

Considerations

24. As explained in Paragraph 168 of the Framework, the need for renewable energy is not disputed and significant weight to the benefits associated with renewable energy and the proposal's contribution to a net zero future. This is also reflected in Policy S16 of the CLLP, as indicated above.
25. The issue in this case is the use of land that is graded Best and Most Versatile Agricultural Land (BMVAL). In terms of the agricultural grading of the appeal site land, the Council and the Appellant are in agreement that the entirety of the main solar park site is BMVAL. This is because approximately 96.1% is

³ Although see section below on Biodiversity Net Gain.

graded as subgrade 3a, with a smaller amount of around 3.9% being Grade 2.⁴ I note that the Appellant's agricultural evidence points to the fact that Grade 1 is at the top of the BMVAL categorisation, followed by Grades 2 and 3a⁵. In that context, the subgrade 3a land is at the lowest end of that part of the spectrum.

26. However, the agricultural land classification also includes categories 3b, 4 and 5 respectively – these do not fall within the definition of BMVAL, yet remain agricultural land. With the context of the totality of the agricultural land classification, the appeal site remains BMVAL and by definition within the 'higher quality' part of the higher versus poorer quality range; albeit I recognise that it would be between middle of higher quality to bottom of a logical 'higher quality' category in policy terms.
27. Put another way, clearly Grade 1 category agricultural land is of the highest quality; with the quality diminishing as the grade number increases. In considering this main issue, I have been cognisant with the fact that there is not a straightforward correlation between the terminology used for agricultural land classification and national policy; with the former setting out six clear grades of agricultural land (1, 2, 3a, 3b, 4 and 5 respectively) and the latter referring to 'higher' and 'poorer'. However, it is a matter of planning judgement in terms of the application of policy, and I have proceeded with this in mind.
28. Whilst there is no specific policy requirement to carry out a sequential-type process (as might be the case with flooding issues), there is a need to ensure that poorer quality agricultural land is used in preference to higher quality agricultural land. This is set out at a national level in both WMS and the Framework. It is also set out at a local level in Policy S67 of the CLLP.
29. With specific regard to Policy S67 of the CLLP, the site here is not an allocated site. Therefore, it would appear to require assessment under the criteria a) to d) of the policy.
30. However, the policy applies when there is to be 'significant development resulting in the loss of the BMVAL'. In this case, whilst the proposed development could reasonably be considered as 'significant' within the context of this policy, it does not immediately follow that the land would result in the 'loss' of BMVAL. The land would remain farmed; albeit pastorally rather than by arable farming methods. There is no indication that the soil – an important part of the BMVAL categorisation process – would not remain on the land. Moreover, at the end of the 40 years operational life of the proposal, it can be fairly easily removed and the land returned to arable food production. These are both factors which can be reasonably secured by planning condition.
31. Accordingly, the proposal would not result in the loss of BMVAL. This is because the land could continue to be used for agricultural purposes, and at the end of its operational life, it can reasonably and easily be returned to arable agricultural uses.
32. Notwithstanding the points over the applicability of Policy S67 parts a) to d) in relation to this case – given that BMVAL would not be 'lost' in either food

⁴ Council's *Statement of Case*, page 11, paragraph 5.22

⁵ *AGRICULTURAL EVIDENCE ON BEHALF OF THE APPELLANT BY TONY KERNON BSc(Hons) MRICS FBIAC*, March 2025, page 4, paragraph 2.12

production or the soil itself; I nonetheless consider these criteria in respect of this scheme for clarity.

33. In terms of criterion a), the need for the proposed development has been clearly established – especially at a national level – and need for renewable energy is not disputed between the main parties. In terms of the second limb of a) there is no requirement to undertake a form of sequential approach 'test' to alternate sites. Nonetheless, the Council and Appellant agreed that there is no previously developed land, brownfield land, contaminated land or industrial land within 4km of Bicker Fen substation that would accommodate the appeal proposal⁶. This approach is site specific and appears to be a pragmatic way in which to assess if there are suitable alternatives within reasonably close proximity to the appeal site. The logical conclusion would be that there is insufficient land available within that proximity to the substation that could be an alternative site for the proposal. As such, the requirements of criterion a) is met in this case.
34. In terms of criterion b) the benefits of renewable energy are not disputed by the main parties. Whilst there is clearly a steer within Policy S67 of the CLLP to avoid the loss of BMVAL, I have found that the proposal here would not result in the actual loss of BMVAL (although I recognise that its agricultural use would be partially limited for a period of 40 years). Even if this were considered to be the case, the land would continue to have agricultural activities taking place on it which can be secured by condition; such as the use of a condition requiring a grazing management plan. As such, the requirements of criterion b) are met in this instance.
35. Criterion c) requires that the impacts on ongoing agricultural operations have been minimised. There is little evidence before me that the proposal would inhibit continuing agricultural operations within the local area. Whilst there would be a small amount of disruption during the construction phase, this would not prevent farmers and other agricultural land users, from accessing their land to undertake farming activities.
36. With regard to criterion d) it is possible to secure the lands return to arable farming at the end of its operational life by planning condition. This could also be secured by conditions such as the grazing management plan noted above, and also a condition requiring a soil management plan. As such, the proposal is considered to accord with this criterion of Policy S67 of the CLLP in this case.
37. Accordingly, with regard to the main issue identified, I find that the use of BMVAL in this case is justified. This is because the proposal would not result in the loss of BMVAL; agricultural activities would still be able to take place on the land; and at the end of the operational life of the solar farm in 40 years, the land can be returned to its former full time use as arable farming land. As such, the proposal would accord with Policies S14, S16, and S67 of the CLLP, which seek the aforesaid aims.

⁶ See Appellant's Final Comments, page 5, paragraph 2.14

Other Matters

38. I note that a number of concerns have been raised by interested parties; including local residents and the Parish Council. I now consider these, before coming to an overall conclusion.
39. I note that the area is a sparsely populated rural area. Nonetheless, there are occupied residential dwellings near to the site. These include Willow Farm, The Meadows, Home Farm Cottage, Home Farm House and Drove Farm (Little Hale Drove). These are located approximately 70 metres or beyond from the appeal site boundaries.
40. Concerns have been raised that the solar panels and associated infrastructure would result in a sense of enclosure and result in harm to views from some of these properties.
41. However, given the distance between the appeal site and these dwellings, the intervening vegetation, and the ability to use landscaping secured by condition, I do not find that the proposal would result in unacceptable impacts on the occupiers of these dwellings in respect of living conditions.

Biodiversity Net Gain (BNG)

42. The appeal scheme was submitted to the Council before February 2024. The MHCLG 'Guidance Biodiversity net gain'⁷ indicates that:
- 'Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024.'*⁸
43. Accordingly, for the proposal subject of this appeal, the statutory framework for BNG introduced by Schedule 7A of the *Town and Country Planning Act 1990 (inserted by the Environment Act 2021)* does not apply in this case. This fact is pointed out within the Officer's Report to Committee on pages 42 to 45; with specific consideration of BNG matters at paragraphs 11.9 to 11.25.
44. Nonetheless, as detailed in the policy section above, Policy S61 of the CLLP requires that all qualifying proposals must deliver at least 10% measurable biodiversity net gain attributable to the development. The Appellant has confirmed that the proposal would exceed the 10% measurable biodiversity net gain as sought by Policy S61 (this would be in the region of +53.82% for area habitats, +328.71% for hedgerows and +8.96% for river units.)⁹. Accordingly, I find that the proposal would accord with the aims of Policy S61 of the CLLP in this instance.
45. Within the SOCG it is agreed between the main parties that there is no requirement for a legal agreement to secure a monitoring fees for monitoring the biodiversity net gain in compliance with Policy S61. However, in recognition of the fact that the Council have a policy that allows it to levy fees in relation to reviewing monitoring data relating to biodiversity net gain during the 30 year maintenance period, the Appellant has submitted a completed

⁷ <https://www.gov.uk/guidance/biodiversity-net-gain>

⁸ <https://www.gov.uk/guidance/biodiversity-net-gain> Paragraph: 003 Reference ID: 74-003-20240214

⁹ See paragraph 11.22 of the Officer's Report. I note that AECOM pointed to disagreement with the BNG metric provided, as recorded in the Officer's Report. This indicated that the AECOM alternate metric gains of +49%, 275% and nearly 14% for area habitat, hedgerow and watercourse units respectively. However, regardless of whether these figures are more accurate or those provided by the Appellant are; in both cases they exceed the 10% biodiversity net gain as sought by Policy S61.

legal agreement (dated 6 August 2025). This is agreed between four parties, including the Local Planning Authority.

46. The Appellant's Final Comments¹⁰ indicate that a document entitled '*Biodiversity Net Gain Guidance for Planners, Ecologists & Applicants*' was published in May 2024 by the Greater Lincolnshire Nature Partnership. This is published as a guidance note to the CLLP. This guidance indicates that monitoring fees should be provided by Applicants in order to enable the Central Lincolnshire Ecologist to review monitoring submissions and conduct quality assurance site visits to ensure biodiversity gains. In this instance, the monitoring fee for this activity would be £7,498, and is the amount secured within the s106 legal agreement. In doing so, I consider that it would seek to ensure that the aims of Policies S60, S61, and S66 of the CLLP are achieved in this case.
47. Moreover, I find that the obligation sought by the Council and secured by the s106 agreement in this case would meet the requirements of Paragraph 58 of the Framework and Regulation 122(2) of the *Community Infrastructure Levy Regulations 2010*, as amended, in that it is necessary to make the development acceptable in planning terms (by ensuring that the biodiversity net gain sought by planning policy is achieved), is directly related to the development (being specific to the application scheme), and is fairly and reasonably related in scale and kind to the development (by being directly related to the scheme and its parameters).

Conditions

48. Within the agreed SOCG, a schedule of suggested conditions have been provided in Appendix A. I have considered these conditions in light of Paragraph 58 of the Framework and the national Planning Practice Guidance and the use of planning conditions.
49. Conditions imposing a time limit for commencement (1), to be in accordance with the submitted drawings (2), and for specific details of aspects such as solar panels, their frames, and CCTV columns (3) to be submitted and approved, are necessary and reasonable to provide certainty.
50. Conditions requiring the notification of the start date and the cessation of the development within 40 years (4) (or after 12 months of the ceasing of electricity from the site (5)), and details to be submitted and approved on the cessation and removal scheme are reasonable, related to the development and necessary to ensure that the development is temporary as sought.
51. A condition (6) requiring the submission of a Construction Environmental Plan (CEMP) is necessary to minimise the effects of the proposal on the environment.
52. Conditions requiring the submission and approval of a Construction Traffic Management Plan (CTMP) (7), the provision of passing places if required by the local highways authority (22), and a pre-construction road condition survey (23) are necessary in the interests of highway safety for all road users.
53. The submission of a Habitat Management and Monitoring Plan (HMMP), its approval, and then carried out in accordance with that approval secured by

¹⁰ Page 10, Paragraph 3.4

condition (8), is necessary and reasonable in order to ensure that the proposal secures biodiversity gains as sought by CLPP Policies S61. For similar reasons, a condition requiring the submission and approval of a soil management plan (15) is necessary and reasonable in order to ensure that the soil quality is no different than its present state, and ideally, is improved over the life of the development so that it can be returned to arable farming at the cessation of the development permitted.

54. A condition requiring the submission and approval is hard and soft landscaping is necessary in order to ensure the appropriate landscaping of the site (9). Similarly, a condition requiring an Arboricultural method statement is necessary and reasonable in order to protect trees and hedgerows as the development is implemented (18).
55. A condition securing the submission and approval of a Battery Safety Management Plan (BSMP) is necessary and reasonable in order to minimise the risk of the proposal to human life and health (10).
56. Conditions relating to archaeological Written Scheme of Investigation (11) and the submission of an Archaeological Mitigation Design Strategy (12) are necessary in order to protect or accurately record any unknown archaeological remains on or near to the site.
57. A condition restricting hours of construction to between certain times is necessary and reasonable in order to minimise the noise and other disturbance on nearby residential dwellings and their occupiers; including those located on roads into and out of the site to the wider highway network (13). Similarly, a condition requiring noise mitigation measures in relation to the BESS and/or on-site substation, and/or solar inverter/transformer stations (14) are reasonable in order to minimise the aural impact of the proposal on the occupiers of nearby residential dwellings and to visitors to the area.
58. Conditions requiring the development to be carried out in accordance with the submitted Flood Risk Assessment Addendum (16) and requiring the provision of foul and surface water drainage measures (17) are necessary and relevant to the site, in order to minimise potential flood risks and the associated negative impact this can have on occupiers of nearby residential dwellings and local communities more generally when flooding occurs.
59. The provision of a skylark mitigation strategy, in broad accordance with the submitted Skylark Mitigation Strategy, is necessary, directly related to the development and reasonable in order to ensure that this bird, strongly associated with farmland and its habitat, is protected and that alternate locations for its nesting and associated habitat are provided to ensure its continued protection within this location (19).
60. A condition requiring the submission and approval of a grazing management plan (GMP) is necessary in this case to ensure that the land, which is BMVAL, continues to be farmed even whilst the solar farm and its associated infrastructure operates on the land (20). However, the GMP submitted and approved should be worded so as to provide the farmer, or tenant, or herdsman, scope to use the land flexibly for grazing without needing the Council's written permission to change the GMP for minor changes.

61. A condition requiring the diversion of the Public Right of Way LHal/51 before electricity is exported from the site is necessary and reasonable to ensure that it continues to provide access to and across the countryside for all (21).
62. Lastly, a condition has been suggested requiring the submission of an Employment and Skills Plan (24). However, it is unclear as to the rationale for such condition. The suggested conditions provided within the agreed SCOG and respective cases do provide detailed reasons. In the absence of justification I do not find that this suggested condition is necessary or reasonable in this instance. I have not, therefore, imposed it.

Conclusion

63. The proposed development would accord with the adopted development plan for the area when considered as a whole, and there are no material considerations that weigh in favour of a decision otherwise than in accordance with it.
64. For the reasons given above the appeal should be allowed, subject to the conditions imposed.



INSPECTOR

Appendix A - Conditions imposed on 3363027

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans/drawings unless modified by details submitted to and approved in writing by the Local Planning Authority pursuant to the conditions of this planning permission:

Title	Drawing Number
General Arrangement	3059-01-01 Rev K
Illustrative PV Frame & Panels	3059-01-02
Solar Farm Inverter / Transformer Station	3059-01-03
Solar Farm Storage Building	3059-01-04
Solar Farm Control Building	3059-01-05
Solar Farm Switchgear Building	3059-01-06
Indicative Deer / Stock Fencing, Access Track & CCTV	3059-01-07
Typical Cable Trench	3059-01-08
Battery Storage Container	3059-01-09
Battery Inverter and Transformer Stations	3059-01-10
Battery Switchgear Building	3059-01-11
Battery Control Building	3059-01-12
Acoustic Screen	3059-01-16

3. Notwithstanding condition No 2, prior to their erection on site, details of the proposed layout, materials, colour, and finish of the following development components shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Solar panels and frames
 - b) Solar inverter / transformer stations
 - c) CCTV columns
 - d) Battery storage containers
 - e) Battery storage inverter and transformer stations
 - f) Ancillary buildings and enclosures (including storage, control, and switchgear buildings)

The development shall be carried out in accordance with the approved details and maintained thereafter.

4. Within 1 month of the date of first export of electricity to the National Grid ('the date of first export') confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. All buildings and foundations, arrays, equipment, and access roads associated with the development, including the buildings and structures associated with the and Battery Energy Storage System (BESS), shall

thereafter be removed from site and the land shall be reinstated in accordance with a schedule of works ('End of Life Removal Scheme'). The End of Life Removal Scheme shall be submitted to the Local Planning Authority for approval at least one year in advance of the development hereby permitted becoming non-operational. The End of Life Removal Scheme shall include full details, including timescales, for the proposed reinstatement works and a soil management plan which provides measures to ensure that there will be no material loss of soil quality during and site reinstatement works. The End of Life Removal Scheme shall be carried out in full accordance with the approved details.

5. In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works ('the Early End of Life Removal Scheme') shall be submitted no later than 6 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved Early End of Life Removal Scheme shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.
6. No development shall take place until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include details of the following:
 - a. timetable for the construction works.
 - b. The control and management of noise and dust during the construction phase.
 - c. On-site construction waste management.
 - d. Identification of biodiversity protection zones / measures to protect biodiversity during the construction period.
 - e. Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements), to include protective fencing to BS:5837 and other exclusion barriers and warning signs.
 - f. The location and timing of sensitive works to avoid harm to biodiversity features.
 - g. Responsible persons and lines of communication, including role and responsibilities on site of an ecological clerk of works or similar competent person.
 - h. Invasive species management.
 - i. Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

7. No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CTMP shall include details of the following:
- a) Construction vehicle numbers, type, and routing.
 - b) Access arrangements onto the site.
 - c) Traffic management measures.
 - d) Areas designated for car parking, loading/unloading and vehicle turning.
 - e) Wheel washing facilities.
 - f) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

8. No development shall take place until a Habitat Management and Monitoring Plan (the HMMP) has been submitted to, and approved in writing by, the Local Planning Authority. The HMMP shall be prepared in broad accordance with the submitted Biodiversity Metric dated 16th April 2024 V2 and associated technical note titled 'Response to LPA Comments' dated 16th April 2024. The content of the HMMP shall include:
- a) Description and evaluation of the new and retained habitat features to be managed and enhanced.
 - b) Aims and objectives of management, and triggers for remedial action where aims and objectives are not being met.
 - c) Prescriptions for habitat creation and longer term habitat management for a minimum period of 30 years.
 - d) Details of the ecological monitoring that will be undertaken to monitor and inform the successful establishment of new habitats, and to confirm successful delivery of ecological mitigation (where linked to new habitat creation and related habitat management measures) and predicted biodiversity gains.
 - e) Provision of a work schedule for all habitat management and monitoring works, including identification of timelines for the delivery of monitoring reports and other appropriate evidence to the Local Planning Authority to demonstrate compliance with this condition.
 - f) Details of the body or organization responsible for implementation of the plan.

Once agreed the HMMP shall be fully implemented within 12 months of the date of first export in accordance with the approved details and retained thereafter.

9. Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall include details of the following:
- a) A timetable for implementation of the scheme.
 - b) External hard surfacing materials.
 - c) Means of enclosure.
 - d) Soft landscape works including planting plans for trees, shrubs, grasslands and hedges, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
 - e) Finished levels and contours.

The landscaping shall be implemented in the planting season following the completion of construction and in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

10. No development shall take place until a Battery Safety Management Plan (BSMP) has been submitted to, and agreed in writing by, the Local Planning Authority. The BSMP shall detail the type and specification of the batteries to be used, prescribe the measures to be implemented to facilitate safety during the construction, operation and decommissioning of the BESS, measures to be deployed in response to any incident with potential to cause pollution and a fire safety management and risk reduction strategy. An Emergency Response Plan must also be included. The BSMP should also set out a methodology detailing how there will be continued engagement with the Lincolnshire Fire and Rescue Service throughout the lifetime of the development. The BSMP shall be implemented as approved and all measures shall be retained for the duration of the development.
11. No development shall take place until the findings and evaluation of the archaeological investigation undertaken pursuant to the 'Little Hale Fen North Kesteven Lincolnshire Written Scheme of Investigation for an Archaeological Evaluation, dated July 2024 Revision 4' have been submitted to and approved by the Local Planning Authority.
12. Following the approval of Condition [11], and prior to the commencement of development, an Archaeological Mitigation Design Strategy shall be submitted to and approved by the Local Planning Authority. The Archaeological Mitigation Design Strategy shall include a final detailed site layout plan developed with reference to the findings of the archaeological

investigation with full details of the final locations, design, and materials to be used for the panel arrays, inverters, control room, substations, BESS, CCTV cameras, fencing, foundations and cabling. The Archaeological Mitigation Design Strategy will define archaeological sensitive areas within which below ground and above ground development will be excluded or sufficient design mitigation shall be provided to avoid impact on identified archaeological deposits. The development shall be implemented in accordance with the approved Archaeological Mitigation Design Strategy.

13. During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 07:30-18:00, and Saturdays and Sundays 08:30-18:00. No machinery shall be operated and no deliveries shall take place between the hours of Saturday 13:00-18:00 and Sundays and Bank Holiday 08:30-18:00 unless agreed in writing with the local planning authority. Piling shall only take place between Monday to Friday 09:00 – 17:00.
14. No noise generating fixed plant and machinery, including the BESS, on-site substation and solar inverter / transformer stations, shall be installed before details, and where necessary mitigation measures, are submitted to, and approved in writing by, the Local Planning Authority to demonstrate that noise from fixed plant and machinery shall not exceed the representative background noise level by more than a rating value of 5 dB(A) when measured as a 15 minute L(A)_{eq} at any residential boundary when measured in accordance with BS 4142:2014+A1:2019. The fixed plant and machinery shall be installed in accordance with the approved scheme.
15. No development shall commence until such time as a soil management plan which provides measures to ensure that there will be no material loss of soil quality within the operational lifetime of the development hereby approved and provides details of any movement of soils within the site, has been submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved.
16. The development hereby approved shall be carried out in accordance with the submitted FRA addendum (FRA Addendum 1 – Supplementary Flood Risk Information, dated 15 February 2024, compiled by Weetwood Services Ltd) and the following mitigation measures it details, unless agreed otherwise in writing with the Local Planning Authority: Critical infrastructure to be set no lower than 1.80m above Ordnance Datum (AOD) to ensure the development is operational during a 0.1% event (2115 scenario)
 - a. Flood resilience and resistance measures to be incorporated into the proposed development as stated.
 - b. Flood resilience and resistance measures to be incorporated into the proposed development as stated.

These mitigation measures shall be fully implemented prior to first export of electricity to National Grid. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

17. No development shall take place until full details of the means of foul and surface water disposal shall be submitted to and approved in writing by the

Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

18.No development shall take place until an Arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing, by the Local Planning Authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

19.No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the Local Planning Authority which is in broad accordance with the submitted Skylark Mitigation Strategy (Little Hale Fen Solar Array Skylark Mitigation Strategy, V2 dated 12/02/2024, compiled by Avian Ecology Ltd) or any other Skylark Mitigation Strategy agreed in writing with the Local Planning Authority. The skylark mitigation strategy shall include details of the following:

- a) Identification of the proposed area for the implementation of mitigation.
- b) Details of how the area will be managed.
- c) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.
- d) Identification of persons responsible for implementing the measures included in the strategy.

The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development. Any changes to the Skylark Mitigation Strategy during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing.

20.No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by the Local Planning Authority, during which months of the year, proposed densities of grazing and how the grazing is to be managed. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

21.No electricity shall be exported until a scheme relating to the proposed diversion of Public Right of Way LHa/51, shown on submitted drawing

No. 3059-01-01Rev K, has been submitted to and approved in writing by the Local Planning Authority (or other appropriate or relevant body). The scheme shall include the proposed diversion route, details of surfacing, a timetable for implementation, signage and waymarks. The footpath shall be implemented and made available for public use in accordance with the approved scheme and timetable.

22. Unless it is confirmed in writing with the Local Highway Authority that passing places along Caterplot Road and Great Hale Drove are not required, then no development shall take place until detailed engineering drawings of the proposed passing places along Carterplot Road and Great Hale Drove, as shown on plan 3059-01-ATR02 Rev B and PGC918-C-200 Rev P2 s ref 3004-01-D04 and 3004-01-D05, and the proposed temporary haul road connecting Great Hale Drove to the development hereby permitted via Old Forty Foot Bank, have been submitted to, and approved in writing by, the Local Planning Authority. No other development shall take place until the passing places and haul road have been constructed in accordance with the approved drawings and have been certified complete in writing by the Local Planning Authority
23. Prior to the commencement of the development hereby approved, a pre-construction condition survey of the public highway network between the A17 at East Heckington and the Application site that will be used by vehicles making deliveries of materials and components to the permitted development shall be undertaken. The survey shall identify and record, by use of a combination of a written report, still and moving photographic images, the condition of all parts of the route prior to the commencement of construction. The Applicant shall, within 6 months of the completion of the construction period, reinstate to the satisfaction of the Local Planning Authority (in consultation with the relevant highways authority), any damage that may be identified, by reference to the pre-construction condition survey, as being attributable to the construction of the permitted development and shall undertake, within an agreed timescale, the repair of any damage that may be caused to the highway network by construction traffic or delivery vehicles during the construction period.

**** END OF CONDITIONS ****



DATE:

6 August

2025

**UNILATERAL UNDERTAKING PURSUANT TO SECTION 106 TOWN AND COUNTRY
PLANNING ACT 1990 AND OTHER ENABLING POWERS**

**RELATING TO DEVELOPMENT AT LAND SOUTH OF LITTLE HALE DROVE, LITTLE
HALE FEN, LINCOLNSHIRE**

LESLIE CHRISTOPHER JOHN MOUNTAIN and PATRICIA LYNN MOUNTAIN

and

L C J MOUNTAIN FARMS LIMITED

and

AGR SOLAR 3 LIMITED

to

NORTH KESTIVEN DISTRICT COUNCIL

CMS Cameron McKenna Nabarro Olswang LLP
1-3 Charter Square
Sheffield
S1 4HS
cms.law

TABLE OF CONTENTS

1. Definitions4

2. Interpretation.....5

3. Statutory provisions6

4. Future planning consents and approvals6

5. The Developer and Owners Covenants.....7

6. Trustee Limitation of Liability.....7

7. Determination of deed.....7

8. Local land charge.....7

9. Third parties.....7

10. Mortgagee Protection.....7

11. Dispute resolution.....7

12. Governing law.....8

13. Waiver.....8

14. Change in ownership.....8

Schedule 1 Covenants9

Schedule 2 The Plan.....10

THIS DEED IS MADE THE 6th DAY OF August 2025

PARTIES

- (1) **LESLIE CHRISTOPHER JOHN MOUNTAIN** and **PATRICIA LYNN MOUNTAIN** of White House, Great Hale Fen, Sleaford NG34 9LT as trustees of The Mountain Private Pension SSAS (the “**First Owner**”);
- (2) **L C J MOUNTAIN FARMS LIMITED** (incorporated and registered in England and Wales under company registration number 04644716), the registered office of which is at Home Farm, Abbots Ripton, Huntingdon, PE28 2LD (the “**Second Owner**”); and
- (3) **AGR SOLAR 3 LIMITED** (incorporated and registered in England and Wales under company registration number 12295197), the registered office of which is at Fourth Floor, Burlington Building, 19 Heddons Street, London W1B 4BG (the “**Developer**”);

TO

- (4) **NORTH KESTIVEN DISTRICT COUNCIL** of District Council Offices, Kesteven Street, Sleaford NG34 7EF (the “**Council**”).

RECITALS

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated and as such is the local planning authority entitled to enforce the planning obligations contained in this Deed.
- (B) The First Owner owns the freehold of that part of the Land currently registered at the Land Registry under title number LL165588 and LL176247 as trustees of The Mountain Private Pension SSAS.
- (C) The Second Owner owns the freehold of that part of the Land currently registered at the Land Registry under title number LL331997.
- (D) The Developer has entered into an option to lease the Land dated 23 August 2023.
- (E) The Developer submitted the Planning Application to the Council for the Development on 30 August 2023. The Planning Application was validated on 15 September 2023.
- (F) The Council refused to grant planning permission pursuant to the Planning Application on 7 November 2024.
- (G) The Developer has appealed against the Council’s refusal to grant planning permission for the Development. The appeal was given reference number APP/R2520/W/25/3363027.
- (H) The Developer has entered into this Deed in order to secure the planning obligations contained in this Deed.
- (I) The First Owner and Second Owner have entered into this Deed for the purposes of consenting to the giving of this Deed and to bind their land to the contents of this Deed.
- (J) The Developer has agreed that the Development shall be carried out only in accordance with the rights and obligations set out in this Deed as well as the Planning Permission.

- (K) The Parties acknowledge that, while the First Owner and Second Owner are bound by the terms of this Deed, at the date of this Deed it is intended that the Developer will carry out the Development and comply with the obligations contained in this Deed.
- (L) This Deed contains planning obligations made pursuant to section 106 of the Act and the Developer is satisfied that obligations in this Deed are compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
- (M) In the event that the Planning Inspectorate or the Secretary of State decides to uphold the Appeal and grant Planning Permission the Parties agree that planning permission should be granted subject to the planning obligations set out in this Deed.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

- 1.1 In this Deed the following expressions shall have the following meanings:

“**Act**” means the Town and Country Planning Act 1990 (as amended);

“**Appeal**” means the appeal with reference APP/R2520/W/25/3363027;

“**Biodiversity Net Gain Monitoring Contribution**” means the sum of £7,498.00 (seven thousand four hundred and ninety eight pounds) paid to the Council in accordance with the obligations in this Deed;

“**Decision Letter**” means a letter issued by either the Secretary of State or an Inspector determining the Appeal;

“**Deed**” means this unilateral undertaking;

“**Development**” means the construction on the Land of a photovoltaic solar array (49.995MW export capacity) with associated grid corridor works, access improvements and ancillary development as more particularly described in the Planning Application;

“**Implementation**” means commencement of Development pursuant to the Planning Permission by the carrying out of a “material operation” (as defined in section 56(4) of the Act) save that for the purposes of this Deed the term shall not include works of demolition, surveys, land clearance or other site preparation, works of archaeological or ground investigation or other ground and site surveying, remediation, the provision of security measures or lighting or the erection of temporary site notices or advertisements (and in this Deed “**Implement**” and “**Implemented**” shall be construed accordingly);

“**Inspector**” means the inspector appointed on behalf of the Secretary of State to determine the Appeal;

“**Land**” means the land south of Little Hale Drove, Little Hale Fen, Lincolnshire edged blue on the Plan for the purposes of identification only;

“**Owners**” means the First Owner and the Second Owner;

“**Parties**” means the parties to this Deed;

“**Plan**” means the plan attached to this Deed at Schedule 2;

“Planning Application” means the application for planning permission for the Development submitted by or on behalf of the Developer to the Council and allocated reference number 23/1021/FUL;

“Planning Permission” means the Planning Permission that may be granted by the Inspector or the Secretary of State for the Development pursuant to the Appeal in the event that the Appeal against refusal is upheld;

“Section 73 Consent” means a planning permission granted pursuant to Section 73 of the Act which varies, amends or replaces the Planning Permission (or any other provision which has a similar effect) and/or to which such planning permission granted pursuant to Section 73 (or any other provision which has a similar effect) of the Act was granted subject to;

“Secretary of State” means the Secretary of State for Levelling Up, Housing and Communities (or any successor secretary of state from time to time);

“Working Days” means any days other than Saturdays, Sundays or public bank holidays.

2. INTERPRETATION

- 2.1 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 2.2 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.3 References to persons include firms’ companies’ corporations authorities or other bodies and vice versa.
- 2.4 References to Acts of Parliament statutory instruments or Government circulars or sections or paragraphs of such Acts statutory instruments or government circulars include any re-enactments amendments or replacements of them and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.5 The references to the parties named in this Deed shall, unless the context otherwise requires, include their successors in title and assigns and in the case of any local authority shall also include any successor in function.
- 2.6 The headings in this Deed are for convenience only and shall not be taken into account in the construction and interpretation of this Deed.
- 2.7 References to clauses are to the clauses of this Deed.
- 2.8 References to the Land shall include any part of it unless the context otherwise requires.
- 2.9 If any provision of this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired.
- 2.10 Wherever there is more than one person named as a party and where an obligation falls to be performed by more than one person, the obligations can be enforced against every person so bound jointly and against each individually unless there is an express provision otherwise.

- 2.11 Any covenant not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

3. STATUTORY PROVISIONS

- 3.1 This Deed constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972, section 1 Localism Act 2011 and any other enabling powers.
- 3.2 The obligations contained at Schedule 1 to this Deed are planning obligations enforceable by the Council for the purposes of Section 106 of the Act and are entered into by the Developer and the Owners and are enforceable by the Council as local planning authority against the Developer and the Owners.
- 3.3 The obligations in this Deed are conditional upon the grant and Implementation of the Planning Permission by the Inspector or the Secretary of State pursuant to the Appeal save for the provisions of clauses 8, 9 and 12 which come into effect at the date of this Deed.
- 3.4 In the event that the Inspector concludes in the Decision Letter that any of the planning obligations set out in Schedule 1 to this Deed are not required and/or are incompatible with any one of the tests for planning obligations set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and accordingly attaches no weight to that obligation in determining the Appeal then the relevant obligation shall from the date of the Decision Letter cease to have effect as set out in the Decision Letter and the Parties shall be under no obligation to comply with the relevant obligation in this Deed.
- 3.5 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on Appeal) after the date of this Deed.
- 3.6 No person will be liable for any breach of the terms of this Deed occurring after the date on which they part with their interest in the Land or the part of the Land in respect of which such breach occurs but they will remain liable for any antecedent breaches of this Deed which occurred prior to parting with such interest.
- 3.7 The First Owner enters into this Deed with the effect of binding the part of the Land within its ownership and the Second Owner enters into this Deed with the effect of binding the part of the Land within its ownership.

4. FUTURE PLANNING CONSENTS AND APPROVALS

- 4.1 In the event that any new planning permission is granted by the Council or an Inspector or the Secretary of State varying or removing conditions on the Planning Permission pursuant to section 73 of the Act, save and in so far as this Deed has been amended by way of a deed of variation prior to the grant of such planning permission, with effect from the date that any new planning permission is granted pursuant to section 73 of the Act:
- 4.1.1 the obligations in this Deed shall (in addition to continuing to bind the Development) relate to and bind all subsequent planning permissions without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to section 106 of the Act; and

4.1.2 the definitions of Planning Permission, Planning Application and Development in this Deed shall be construed to include references to any planning permissions granted under section 73 of the Act and the development permitted by such subsequent planning permission.

5. THE DEVELOPER AND OWNERS COVENANTS

5.1 The Developer and Owners covenant with the Council as set out in Schedule 1 to this Deed.

6. TRUSTEE LIMITATION OF LIABILITY

6.1 Any liability of the First Owner arising out of this Deed or matters connected with it shall be limited to the value of the assets of The Mountain Private Pension SSAS in their possession from time to time.

7. DETERMINATION OF DEED

7.1 This Deed shall be determined and have no further effect if the Planning Permission:

7.1.1 expires;

7.1.2 is varied or revoked other than at the request of the Developer; or

7.1.3 is quashed following a successful legal challenge.

8. LOCAL LAND CHARGE

This Deed is a local land charge and may be registered as such by the Council.

9. THIRD PARTIES

No provisions of this Deed shall be enforceable under the Contract (Rights of Third Parties) Act 1999.

10. MORTGAGEE PROTECTION

No mortgagee or chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a receiver) shall be liable for any breach of this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owners or Developer as if it had been executed and registered as a land charge prior to the creation of the mortgagee's interest in the Land.

11. DISPUTE RESOLUTION

11.1 Subject to Clause 11.2 below in the event of any dispute or difference arising between the Parties to this Deed touching or concerning any matter or thing arising out of this Deed such dispute or difference shall be referred to some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert and shall receive representations

from the Parties in dispute and his decision shall be final and binding on the Parties to the dispute or difference (except in the case of manifest error or fraud) and his costs shall be payable by the Parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the Parties to the dispute or difference in equal shares (and if one party shall bear more than their due proportion they may recover the excess from the other as a debt).

- 11.2 In the absence of agreement between the Parties to the dispute or difference as to the professional qualifications of the person to be appointed pursuant to Clause 11.1 above or as to the appropriate professional body within 14 Working Days after any party has given to the other Parties to the dispute or difference a written request to concur in the professional qualifications of the person to be appointed pursuant to Clause 11.1 above then the question of the appropriate qualifications or professional body shall be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales on the application of any party to the dispute or difference and such solicitor shall act as an expert and his decision as to the professional qualifications of such person or as to the appropriate professional body shall be final and binding on the Parties to the dispute or difference and his costs shall be payable by the Parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the Parties to the dispute or difference in equal shares (and if one party shall bear more than their due proportion they may recover the excess from the other as a debt).

12. GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

13. WAIVER

No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms obligations or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms obligations or conditions or for acting upon any subsequent breach or default.

14. CHANGE IN OWNERSHIP

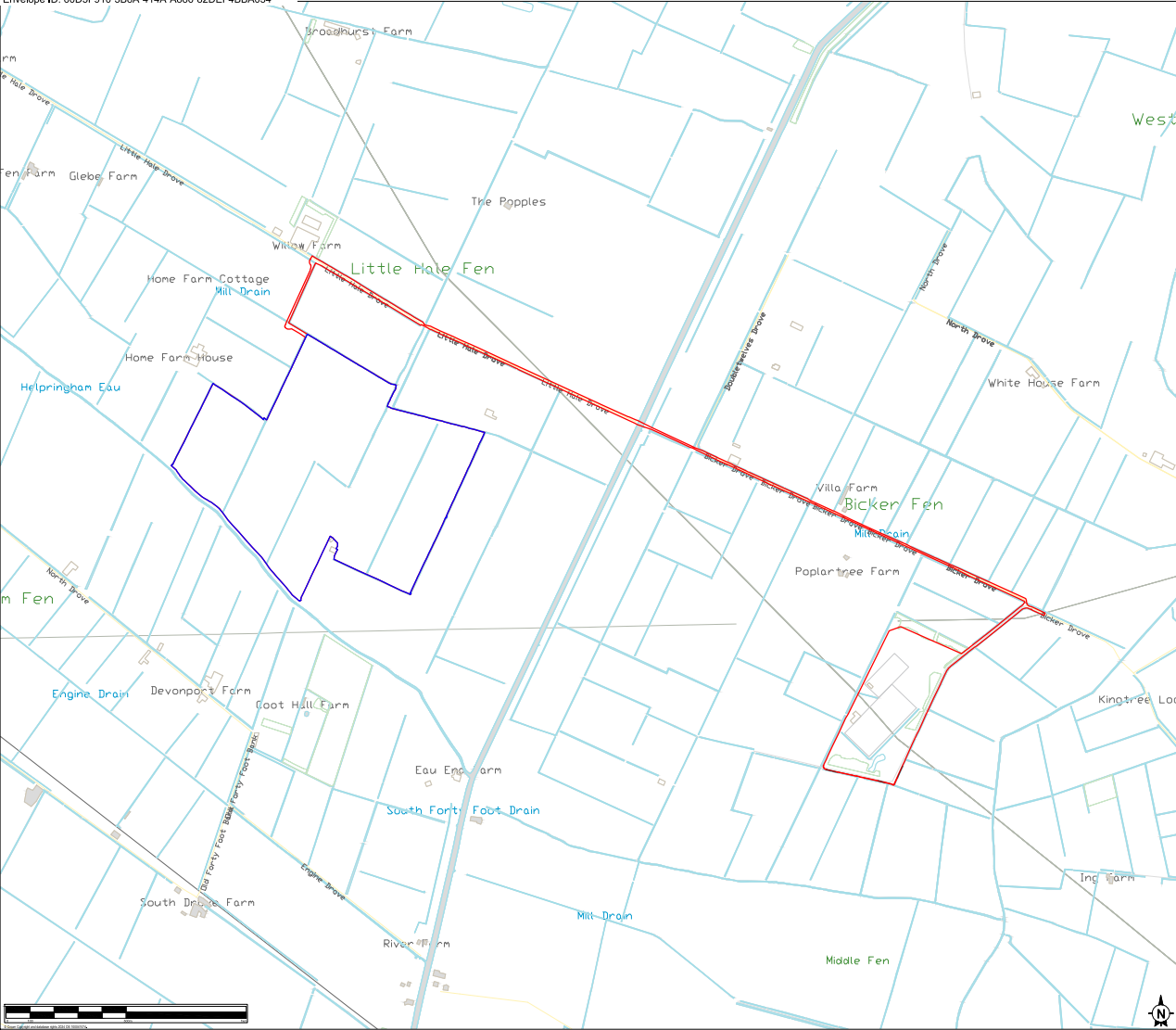
The Owners and Developer shall give to the Council as soon as practicably possible written notice of any change in ownership of any of their interests in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land by reference to a plan.

SCHEDULE 1
COVENANTS

The Developer covenants with the Council:

1. Within 10 Working Days of receipt of an invoice from the Council (addressed to the Developer, stating it relates to Little Hale Fen, and delivered to the Developers registered office address) requesting payment of the Biodiversity Net Gain Monitoring Contribution, to pay the Biodiversity Net Gain Monitoring Contribution to the Council.

SCHEDULE 2
THE PLAN



Site Location Plan

- Planning Obligation Land
- Additional Land

REV	DESCRIPTION	DATE

PROJECT		Little Hale Fen	
DRAWING TITLE			
Site Location Plan			
DATE	10.03.25	SCALE	1:10,000 @ A3
DRAWN	EJ	CHECKED	-
DRAWING NUMBER		LHF-SLP-001	

Mayfair Office: 19 Haddon Street, Fourth Floor London, W1B 4BG		AGR	
0207 042 1100 - www.agr-group.co.uk/		Positive Energy	

IN WITNESS whereof this instrument has been executed as a Deed by the parties to this Deed the day and year first before written

Signed as a deed by)
LESLIE CHRISTOPHER JOHN MOUNTAIN)
in the presence of:)
)



Name of witness:
.....

Signature of witness:
.....

Address: Unit 9, 800 Military Rd Mosman, NSW 2088
.....

Occupation: Business Owner
.....

Signed as a deed by)
PATRICIA LYNN MOUNTAIN)
in the presence of:)
)



Name of witness: ..
.....

Signature of witness: ..
.....

Address: Unit 9, 800 Military Rd Mosman, NSW 2088
.....

Occupation: Business Owner
.....

Executed as a deed by)
AGR SOLAR 3 LIMITED)
acting by a director:)
Oliver Breidt) Directo
in the presence of:)

Name of witness:
(in BLOCK CAPITALS)

Signature of witness:
Ribce 35.a, Slovenia
Address:
.....
Analyst
Occupation:

Executed as a deed by)
L C J MOUNTAIN FARMS LIMITED)
acting by a director:)
Matthew John Mountain) Director
in the presence of:)

Name of witness:
(in BLOCK CAPITALS)

Signature of witness:
Unit 9, 800 Military Rd Mosman, NSW 2088
Address:
.....
Business Owner
Occupation:

26 August 2025

Your Reference
Springwell Solar Farm**Our Reference**
60468641 Springwell
North Kesteven District Council**Springwell Solar Farm - Comments on Deadline 3 Submission**

Dear Sylvia,

The Deadline 3 submission addresses the following outstanding matters acceptably:

- The locations of the skylark mitigation areas are clearly identified on Figures 3.3A-F of ES Volume 2. The details demonstrated a coherent network associated with suitably sized blocks of grassland habitat.
- Chapter 7 has been updated to reflect the update of Appendix 7.11 (see below). There are no other relevant changes. The amendment is acceptable.
- Appendix 7.1 has been updated to remove the previously discussed erroneous reference to *Fumaria muralis* subsp. *neglecta*. There are no other updates to this report. The amendment is acceptable.
- Appendix 7.11 now provides a correct account of the assessment of Important Hedgerows. The results are indicative only as the survey did not follow the required standard methods. As advised previously, I do not consider this limitation to be material given the Hedgerow Regulations have limited applicability to the planning system. The approach to minimising impacts on hedgerows, mitigation and enhancement is acceptable (pending receipt of the further information requested to explain and evidence how hedgerows have been classified for BNG purposes).
- Appendix 7.14 has been variously amended to address most previous comments and advice. A few final matters, including the baseline hedgerow classification (see comment on Appendix 7.11), remain to be resolved.
- The oLEMP partially clarifies the areas to be managed for scarce arable flora within paragraph 6.1.43. This is acceptable and securable. The additional benefits associated with arable land managed to provide food and cover for birds (paragraph 6.1.42) require further definition before they can be agreed as securable. There are some additional considerations to resolve arising from comments on the BNG assessment.

The matters require further clarification are identified and explained below.

Bird mitigation areas – arable field margins

Paragraph 6.1.42 of the oLEMP states “*A proportion of arable margins on Springwell West will be sown with a bird cover crop to provide seed for ground nesting and other bird species during the winter months, this being an important aspect of maintaining farmland bird populations.*” This is rather vague as a commitment and consequently it is not a good basis for agreement of the final specification post-determination.

What does a “proportion” equate to? How many arable field margins will this to apply to and where? It is appreciated that it is likely to be desirable to maintain flexibility in the precise locations of the margins in any given year given arable cropping patterns will vary over time. However, sufficient clarity is needed on what is proposed so the commitment can be adequately secured.

Provision for other species

The oLEMP still does not provide a clear commitment in relation to the numbers of bird and bat boxes to be provided. It is appreciated that the locations may need to be confirmed later when producing the final LEMPs, but it should be possible to commit to the minimum number that will be provided across the Site.

Habitat classification/ BNG baseline

Confidence is needed that the baseline is correctly weighted. If the habitat type is mis-identified and consequently under-weighted in the Metric then this will inflate the predicted level of BNG.

Woodlands

I cannot identify the further information that was requested to evidence that the woodlands classified as ‘other woodland’ types (noting also the restrictive definition of this habitat in the UKHab manual) are not instead the higher value ‘lowland mixed deciduous woodland’.

As specific examples of the need for this clarification: the woodland northeast of TN10 in Appendix 7.1 (habitat ID 551 of Appendix 7.14) is shown on the 1st Edition OS map and therefore is of sufficient age that it would seem best treated as semi-natural woodland unless evidence is presented to demonstrate otherwise. This also seems to be the case for part of the woodland denoted by habitat ID 364. Appendix 7.1 lacks robust descriptions of woodland habitats so currently the required evidence is lacking.

Similarly, it is not demonstrated that the woodland at TN5 (habitat ID 344) falls within the standard UKHab definition of other woodland. This woodland would seem to be over 100 years old based on the 1900s OS map. This is also the case for the woodland with habitat ID 548.

Hedgerows

There are discrepancies between the data presented for the important hedgerows assessment in Appendix 7.11 and the hedgerow classification provided within Appendix 7.1 as relied on for the BNG assessment.

I have not reviewed all data; however I identify at least 13 hedgerows (2, 4, 6, 8, 12, 24, 39, 49, 52, 56, 57, 61 and 67) where 5 to 7 woody species were recorded from

the sections of hedgerow surveyed for the important hedgerows assessment. This level of diversity indicates hedgerows likely to be classifiable as species-rich. But Appendix 7.1 classifies all of these hedgerows as 'native hedgerow' i.e. species-poor hedgerow. It would seem highly unlikely that for all these hedgerows the sampled sections (which reflects the positions of hedgerow crossings) would be species-rich whilst the wider hedgerow was species-poor. At present the only structured data provided for review is that derived from the important hedgerows survey and therefore weight needs to be placed on this survey data.

Previously it was requested that further information be provided on the methods employed and the data obtained to classify the hedgerows for BNG assessment purposes. This information is yet to be provided.

For the avoidance of doubt, it needs to be evidenced that:

- The survey undertaken to classify hedgerows aligned with the requirements of UKHab and BNG i.e. data derived from 30m survey sections in accordance with the method described in the Defra Hedgerow Survey Handbook.
- That the species list used was the full list of British native and archaeophyte woody species, including sycamore (not the reduced list of species used for Hedgerow Regulations survey).

In the absence of the above, it needs to be demonstrated that the baseline hedgerow classification is adequately precautionary.

Other BNG matters

Phasing

The BNG report update does not clarify how the assessment has responded to the Proposed Development being phased, or any implications/requirements arising from this.

The oLEMP states (paragraph 1.3.4) *"The Proposed Development is likely to be constructed in phases or parts, and it is envisaged that the detailed LEMP(s) may be prepared, approved, and implemented for individual parts or phases of the Proposed Development. As a result, there could be multiple LEMP(s) prepared in accordance with this oLEMP. Each LEMP will be produced in line with this oLEMP following grant of the DCO and approved by the local planning authority in consultation with relevant parties in advance of the date of commencement of the relevant phase or part of the Proposed Development."*

Delay in starting habitat creation/ enhancement

The Metric is not populated with a weighting to reflect the number of years delay in starting habitat creation and enhancement. Therefore the Metric result is based on the most optimal assumption of habitat creation/enhancement in the same year that habitats are removed for construction.

If this timeline is not achieved then more land may be required as more habitat units would be needed to achieve the same % gain. It is not evidenced that the Applicant has sufficient land on-site. Therefore, it is not explained or evidenced that this is realistically achievable within Appendix 7.14.

If the Applicant wishes to maintain this position, rather than applying a more precautionary weighting, then a clear commitment is needed that can be secured. To support this, the commitment should be reflected within the Metric (i.e. application of 0 years delay) and within Appendix 7.14 and the oLEMP.

It is appreciated that at detailed design post-determination it may be possible to provide some habitat creation in advance of habitat loss, and the Metric can take account of this at that time. But for current purposes, clarity is needed on what the worst-case committed timeline for habitat creation and enhancement.

Habitat enhancement – lowland calcareous grassland

I cannot identify the further information that was requested to evidence that the proposed uplifts in distinctiveness of grassland types is realistic. This is specifically relevant to the proposed creation of lowland calcareous grassland, a priority habitat type, through enhancement of existing modified grasslands. This is a significant gain, with 202 habitat units proposed to be delivered by this method i.e. nearly 25% of the net unit change.

Even then, a successful outcome (target condition) may take (based on the metric) 20 years versus 10 years if habitat creation were to be employed. Habitat creation would have greater confidence in a successful outcome (hence the much reduced timeline) given the removal of existing non-target vegetation and the improved ability to modify substrates if needed (e.g. by stripping topsoil).

I am also not satisfied that the timeline for depleting nutrient levels in existing grasslands is realistic given the absence of data on current nutrient levels within soils. This is an important factor influencing likelihood of success in achieving the target habitat. To quote paragraph 5.3.6 of the oLEMP “*current nitrate and phosphate levels in the soils across the Order Limits are likely to be high due to years of inorganic fertiliser application. High levels of these nutrients favour coarse grasses and leads to a less floristically diverse sward. It is not anticipated that directly sowing species rich grassland mixes into nutrient-rich soils will be effective, as grasses will outcompete wildflowers.*” The oLEMP indicates nutrient reduction can be completed in a single year prior to sowing, but the basis for this assumption is not evidenced.

Given the above, there needs to be a high degree of confidence that lowland calcareous grassland can be delivered successfully using enhancement methods. Further detail should be provided on what is proposed and the Applicant should provide further peer-reviewed and other robust evidence to demonstrate this.

Habitat enhancement – other neutral grassland

It is still not satisfactorily explained how 67 habitat units of ‘Good’ condition other neutral grassland is likely to be achieved through enhancement. This is another enhancement proposal that could take many years to achieve (15 years stated within the metric).

Firstly, it needs to be queried how the formal definition of other neutral grassland will be met without substantive removal of the existing modified grassland sward (which would represent habitat creation not enhancement), or otherwise evidence presented to demonstrate that the existing grassland sward is otherwise of favourable composition as a starting point. In order to meet the definition there would need to be

at least one non-agricultural grass species present at a level consistent with Abundant within the new habitat, and rye-grass cover would need to be <30% of the sward. This is challenging requirement given modified grassland is often characterized by rye-grass and other agricultural grasses of sown origin. An enhancement approach would generally leave 50% of the sward intact so these grasses would remain at high cover at the time that the new grassland is sown. Grasses cannot be easily reduced in cover given they are not targets for selective herbicides, and a broad-spectrum herbicide would affect (remove) most of the existing sward.

Secondly, irrespective of the above, for Good condition to be likely, sufficient condition criteria must be likely to be met. I can't identify enough that are reasonably certain – as reviewed below. To achieve Good condition Criterion A and F must be met plus at least three other criteria (5 in total). I am not satisfied that a condition greater than Moderate (minimum score of 3 required including Criterion A) is reasonably certain.

Criterion	Summary of the requirement	Comment
A – mandatory criterion for achieving both Moderate and Good condition	The parcel must be a good example of the habitat type, with a consistently high proportion of indicator species with sub-optimal species scarce.	Possible, but confidence reduced given the proposed approach relies on enhancement of the existing sward (see above).
B	Sward height is varied (at least 20% <7cm in height and at least 20% more than 7cm in height) creating varied microclimates for insects, birds and mammals to live and breed.	It is not explained how this can be achieved given the difficulty in maintain grasses at less than 7cm height in the growing season on any more than the poorest soils. It is not certain that this can be achieved reliably through a single growing season and then maintained over time. This is not a criterion that can be claimed as a result of a hay cut to lower the sward (which may be the only management based on 6.1.41 and 6.1.44 of the oLEMP), it needs to be a consistent characteristic of the grassland parcel being assessed. Regular mowing to maintain areas of short grass would not be beneficial for the target fauna.
C	Cover of bare ground should be between 1% and 5% of each grassland parcel.	No mechanism is identified for achieving this and then maintaining it reliably over time.

D	Bracken <20% cover and scrub <5% cover.	Feasible
E	Species indicative of sub-optimal condition and areas of damage should together account for less than 5% of the area of each grassland parcel.	Feasible
F - mandatory criterion for achieving Good condition	More than 10 vascular plant species per m ² . Including forbs characteristic of the habitat type.	No mechanism is identified that is certain to achieve this. The timeline for reaching target condition (15 years), the uncertainties resulting from the success of seeding into, and establishing the required diversity of plant species within, an existing established grassland sward, and the restrictions imposed by the need to achieve the formal definition of other neutral grassland, all indicate that more precaution is needed in the end result.

Use of Fairly Poor condition for modified grassland

I cannot identify the requested explanation for use of 'fairly poor' condition for the proposed modified grasslands. I do not understand the need for use of the fairly poor category given the criteria defined for condition assessment would either be failed or passed (there is no intermediary position). As the relevant criteria will either be met or they won't, the condition will either be 'poor' or 'moderate'? Further explanation should be provided to allow the planning authority to agree use of Fairly Poor, and as otherwise required in accordance with page 26 of The Statutory Biodiversity Metric User Guide.

Yours sincerely,


 Associate Ecologist
 AECOM Limited
 E: @aecom.com