Springwell Solar Farm

Response to Examining Authority's Schedule of Proposed Changes to the Draft Development Consent Order

EN010149/APP/8.27
Deadline 4
September 2025
Springwell Energyfarm Ltd

Planning Act 2008
The Infrastructure Planning
(Examination Procedure) Rules 2010

1. Introduction

1.1.1. This document sets out the Applicant's response to the ExA's commentary [PD-009] on the **Draft DCO [EN010149/APP/3.1.3]** [REP3-004], dated 2 September 2025.

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
Schedule 2	Replacement solar PV panels 21. The number of solar PV panels replaced over the lifetime of the authorised development shall not exceed 5%. Details of the number of solar PV panels replaced, including an overall percentage figure that includes all previous years, shall be submitted to the relevant planning authority on a yearly basis.	To ensure that impacts above those assessed in the Environmental Statement [APP-048] do not occur the ExA propose an additional requirement to restrict the replacement of solar PV panels to 5% across the lifetime of the Proposed Development. Notwithstanding the Applicant's view in terms of Article 5 and Schedule 16 of the dDCO [REP3-004], in the absence of any requirement to keep the relevant planning authority informed of the number of panels being replaced, it is difficult to see how it could monitor whether the extent of replacement is likely to have materially new or different significant effects from those assessed in the ES.	The Applicant strongly opposes the imposition of such a requirement. The comment from the ExA is useful, as it highlights the reasoning for any requirement as responding to the difficulty for the relevant planning authority to "monitor whether the extent of replacement is likely to have materially new or different significant effects from those assessed in the ES". This comment correctly identifies the concern as being the *impact* of replacement of parts, rather than the activity itself. It follows from that, that it is appropriate to put measures in place to control and monitor the *impact*, rather than placing a percentage restriction on the panel replacement. The difficulty with imposing a 5% restriction on panel replacement, is that this doesn't bear a direct relationship to the impact of the replacement. For example, there's no suggestion or evidence that if 5.5% or 7% of panels was replaced over the 40 year operational lifetime of the Proposed Development that that would result in environmental effects materially new or different to those assessed in the ES. The Applicant has set out its response on this point in its **Written Summary of Oral Submissions at Issue Specific Hearings 2, 3 and 4 [EN010149/APP/8.22]** [REP3-075] and this is repeated here, with additional commentary. The Applicant submits that there is a range of controls which operate to restrict the Applicant's ability to realistically 'maintain' (rather than whole scale replace) the development, and that its

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			approach accords with policy, good practice and other recent solar DCOs. Firstly, the definition of 'maintain' in the **Draft DCO [EN010149/APP/3.1.3]** [REP3-004] is not too extensive and widely drawn; it accords with paragraph 5.4.18 of the Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders where the definition as drafted does not authorise development which may result in significant environmental effects not already assessed in the ES. The definition has been drafted to directly reflect the nature and context of the Proposed Development, which will need to be properly maintained, managed and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Accordingly, the Applicant's view is that it would not be appropriate to set an upper limit on any works needed to reconstruct the Proposed Development, save for it doesn't include reconstruction of the whole Proposed Development, so that the Applicant can properly maintain the scheme and it can continue to meet the identified need throughout its operational lifetime. Therefore, the definition of "maintain" already contains limits. This approach is consistent with the structure of the maintenance power in all recent NSIP DCOs. The approach is also aligned with the Advice Note as the control on "maintain" is by reference to its environmental impacts, rather than an arbitrary restriction on a specific activity. Secondly, Article 5 (power to maintain the authorised development) at sub-paragraph (3) of the **Draft DCO [EN010149/APP/3.1.3]** [REP3-004] only authorises maintenance to be carried out where there are no materially new or materially different environmental effects that have not

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			been assessed in the environmental statement, therefore limiting the actions the Applicant can undertake, by reference to the impacts that maintenance activities would have. Thirdly, the **Outline Operational Environment Management Plan (oOEMP) [EN010149/APP/7.10.4]** [REP3-039] submitted at Deadline 3 introduces an additional control by inserting Section 2.10 "Replacement Schedule". This section sets out how the Applicant is committing to an 'annual planning maintenance schedule' which is a report provided to the relevant planning authority on activities in the upcoming twelve months, which must include (at a minimum) details which confirm that "the environmental effects that are likely to arise as a result of such maintenance and the environmental controls to be implemented are not materially worse than those reported in the ES". Section 2.10 then confirms "*Excluding unforeseen emergencies and unless otherwise agreed with the relevant planning authorities, the Applicant will not undertake maintenance activities outside of the planned maintenance schedule*". Finally, Schedule 16 of the Draft DCO **Draft DCO [EN010149/APP/3.1.3]** [REP3-004] provides an ultimate control through the procedure for discharge of requirements. Paragraph 3 of Schedule 16 requires that any application seeking to discharge a requirement made by the undertaker to the relevant planning authority must "include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are". The undertaker must also confirm that the relevant consultees have been provided with the relevant information forming part of the discharge application, where mandated by the requirement. It is then at the discretion of the

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			relevant planning authority to determine whether the requirement has been successfully discharged. In practice, if the relevant planning authority has any concerns as to whether the Applicant is complying with the above restrictions (or if any concerns are reported to it), in particular what it has set out in its planning maintenance schedule, it can ask the Applicant to demonstrate compliance and that its maintenance activities are not in breach of the DCO or any documents secured by it (including the planned maintenance schedule), and the Applicant would need to demonstrate compliance. The relevant planning authority could request this informally, or could use its powers under section 167 of the Planning Act 2008 to issue an information notice. If the relevant planning authority is not satisfied that the Applicant has demonstrated that it is not in breach of the provisions of the DCO (which include the power in relation to "maintenance" and the requirement to undertake the Proposed Development in accordance with the approved OEMP) it could take enforcement action. Any form of requirement further controlling the Applicant's capacity to maintain the Proposed Development would be wholly unreasonable as there is no justification for a further restriction; the Applicant has proposed appropriate checks and balances to ensure that the environmental impacts of the Proposed Development – including maintaining it during the operational phase - have been assessed and secured appropriately, and those measures are enforceable by the relevant planning authority.

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
Schedule 2	Restriction of solar PV panels in flood zone 3b 22. Notwithstanding the Work Plans and Illustrative Layout Plans and Sections, no development shall be located in areas of Flood Zone 3b, as identified in the Environmental Agency's flood maps.	The ExA remain unconvinced that there is an operational need to locate solar PV panels in areas of Flood Zone 3b, contrary to Paragraph 5.8.41 of National Policy Statement EN-1.	The Applicant does not agree with the imposition of such a requirement and to impose this requirement would restrict the ability of the Proposed Development to maximise generation, and therefore the benefits from the scheme, in the context of there being a demonstrated, urgent need for renewable energy generation and there being a Critical National Priority for this type of infrastructure. The Applicant has set out its position in **Written Summary of Oral Submissions at Issue Specific Hearings 2, 3 and 4 [EN010149/APP/8.22]** [REP3-075] and those reasons are repeated here. The Applicant maintains its position that the need to maximise electricity generation and the grid connection from the Site is an operational reason justifying the siting of solar panels within Flood Zone 3B. This justification relates to that part of the Proposed Development that is the Nationally Significant Infrastructure Project, that is, the generating station itself (Work No. 1). In response to the point from the ExA (raised during the issue specific hearing) that the test in paragraph 5.8.41 of EN-1 could (on the Applicant's approach) be met by any development caught by NPS EN-1, the Applicant considers there is a distinction, so that the operational reason of maximising energy generation would not necessarily apply to say, siting welfare facilities or buildings in Flood Zone 3B (accepting there may be other operational reasons for doing so). There are various aspects of associated development, likely to be consented alongside a solar NSIP, that conceivably could not be said to have to be in Flood Zone 3B for reasons that are based on the integral contribution of that development to maximising the generation of the scheme – for example, ancillary buildings for storage, workshops, a control room. Such infrastructure is integral and crucial to supporting the generation of energy by the NSIP, but not necessarily to "maximising" that energy

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			generation – whereas firstly the solar NSIP is itself directly responsible for energy generation, and secondly, maximising such generation is (in this case) dependent in part upon being able to use the site as efficiently as possible by using the available land for energy generation, and in this case this includes siting panels in Flood Zone 3B. If the ExA or the Secretary of State disagrees with the Applicant on this point, the Applicant suggests that any such requirement would not be justified in seeking a restriction on "no development" but should instead be on "no above ground infrastructure".
Schedule 2	Procedure in cases of unexpected contamination 23.-(1) At any time during construction, in the event that unexpected contamination is found to be present work in that location must cease immediately and no further development in that location shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the Environment Agency. (2) The remediation strategy shall be implemented as	Given the vicinity of areas of groundwater sensitivity and abstraction, the ExA are of the view that the procedure in cases of unexpected contamination should be set out within a requirement in the dDCO rather than in the Outline Construction Environmental Management Plan [REP3-032].	The Applicant maintains its position as explained during issue specific hearing 3 and set out in the Applicant's **Written Summary of Oral Submissions at Issue Specific Hearings 2, 3 and 4 [EN010149/APP/8.22]** [REP3-075], against Agenda Item 6.4, which provides: *The ExA asked the Applicant to justify the location of the unexpected contamination procedures in the **oCEMP [EN010149/APP/7.7.3] [REP2-015]** rather than in a requirement itself.* *Ms Coleman, for the Applicant, explained that where the commitment to the unexpected contamination procedure sits (i.e. how it is secured) was the only outstanding point with the Environment Agency (EA), as the Applicant had otherwise accepted all of the measures the EA proposed. While the EA and the Applicant had sought to resolve where the commitment should be secured, Ms Coleman anticipated that the parties may not reach agreement.* *Ms Coleman stated the Applicant's position was that it should sit in the **oCEMP [EN010149/APP/7.7.3] [REP2-015]**, because it*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
	approved under sub-paragraph (1). (3) Within three months of the implementation of the remediation strategy a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the relevant planning authority following consultation with the Environment Agency. The verification report shall include results of sampling and monitoring carried out in accordance with the approved remediation strategy to demonstrate that the site remediation criteria have been met.		*reflects best and standard drafting practice, and is allowed for and anticipated by the Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders which records that "Mitigation may include adherence with control measures established through relevant management plans". Ms Coleman clarified that there was no specific contamination risk here, and that this was purely a precautionary process put in place for unexpected finds. She explained that there is a clear requirement to comply with the CEMP, and that it is enforced by the DCO requirement requiring ongoing compliance with the approved CEMP.* *In response to the concerns from the EA that the process requires further approval, Ms Coleman noted that this process of further approval for contamination finds can be secured via the process set out in the CEMP. She noted the process was set out in the* ***oCEMP [EN010149/APP/7.7.3] [REP2-015]****, and the Applicant envisaged that when it submitted the detailed CEMP for approval, more detail could be added to the current process which again lent itself to being in the CEMP. Ms Coleman confirmed that the EA is a consultee to the CEMP requirement, so would be able to review the CEMP at that time and be comfortable that the procedure for unexpected contamination was adequately included. Lastly, Ms Coleman noted that the Applicant's approach reflected that of most made solar DCOs on the face of the Order; and that the examples of an unexpected contamination requirement in orders tended to be for projects in more industrialised, non-rural areas, which were of a different nature to what we have here (for example, Net Zero Teesside, Thames Tideway, various Orders in relation to existing ports areas).* *Ms Annette Hewitson, Principal Planning Adviser for the EA, confirmed that the EA welcomed the procedure in the CEMP; however, given the Proposed Development is in a rather*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			sensitive area for groundwater resources that provide significant quantities of drinking water, that while the risk of contamination was low, it was because of that sensitivity that the EA sought for it to be very clear that should the Applicant come across contamination, it must be dealt with appropriately. Ms Hewitson explained that the EA sees that the CEMP would be approved prior to the works starting, but having it in a requirement would be to make it very clear that once those works had started, if contamination is discovered that work should stop in that area and for the EA to then have a role to play as a consultee in terms of what is found and how it is remediated. She noted that there is the added complication in terms of how the DCO is drafted, where remediation is carved out as a permitted preliminary work (see requirement 12), however, the EA remains of the view that it remain on the face of the DCO to ensure it is clear to all parties what is required. Ms Hewitson rejected the Applicant's statement that these kinds of requirements were only in DCOs in rural areas, and gave the example of the recent Viking Carbon Capture Storage Pipeline DCO where this was for a pipeline which goes through some rather rural areas. *Ms Coleman, for the Applicant, agreed to discuss the draft wording around the unexpected contamination procedure in the* ***oCEMP [EN010149/APP/7.7.3] [REP2-015]*** *with the EA further, to have regard to the EA's views that the current wording was potentially too restrictive and more onerous than what the EA had suggested for the requirement. Ms Coleman also clarified in Requirement 12(5) of the* ***Draft DCO [EN010149/APP/3.1.2] [REP1-006],*** *the Applicant has ensured that remedial works trigger that requirement; they are not permitted preliminary works that mean that they can be done before the CEMP is in place. She further explained that Requirement 12(4) requires that once the detailed CEMP is approved, the authorised*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			development must be undertaken in accordance with that CEMP, so that any procedures and any further approvals that the approved CEMP contains must be complied with. ***Post-hearing note:** The Applicant has updated the **oCEMP [EN010149/APP/7.7.3] [REP2-015]** at Deadline 3 to ensure the procedure for unexpected contamination responds to the comments made by the EA (in terms of only needing to stop work in one area if contamination is found). The parties had a call on 4 August 2025, and the point as to where the unexpected contamination find is to be secured remains unresolved, so the parties have agreed to leave this point for determination by the Secretary of State.*
Schedule 2	Grid connection 24. No part of the authorised development, including any permitted preliminary works, shall commence until planning permission has been granted for the National Grid Navenby Substation.	The ExA acknowledge the Applicant's view in terms of commercial reality and the unlikelihood that it would proceed with the construction of the Proposed Development until there was certainty that the Proposed National Grid Navenby Substation (NGNS) would be delivered. However, the ExA are mindful that it would be possible for the Applicant to undertake site preparation works (such as hedgerow and tree removal) prior to planning permission being granted for the NGNS that would be at limited commercial cost, but which could result in adverse environmental effects.	The Applicant strongly opposes the imposition of the proposed requirement, and maintains its position as set out at multiple points during the Examination, including at Issue Specific Hearing 4 and recorded at **Written Summary of Oral Submissions at Issue Specific Hearings 2, 3 and 4 [EN010149/APP/8.22]** [REP3-075], Agenda Item 3.4 which is provided below: *The ExA asked the Applicant when a requirement should apply if the ExA were minded to include a requirement that restricts commencement of the proposed development until there is certainty about the delivery of the Navenby substation.* *Mr Griffiths explained that the Applicant does not consider such a requirement to be lawful or justified. He said that NPS (NPS EN-1 and EN-5) and the Clean Power 2030 Action Plan all support urgent delivery of renewable infrastructure to meet the legally binding 2050 Net Zero target. He emphasised that NPS EN-1 (paragraph 4.11.8) explicitly allows for grid infrastructure to come forward separately from generating stations. He also referred to the existing grid connection agreement and National*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			Grid's duty to connect (NPS EN-5, paragraph 2.8.5), noting that the Applicant has complied with all relevant EIA and policy requirements. Applying such a requirement broadly would delay renewable energy deployment and pose a serious risk to achieving Net Zero. He cited the Drax Bioenergy Carbon Capture project as precedent, where no such requirement was imposed despite related infrastructure not yet being consented. *The ExA asked the Local Authorities the same question. Mr Sheikh, Counsel for NKDC, said that that there is precedent for including requirements in DCOs that make one part of a project contingent on another. Mr Sheikh cited the Viking CCS Carbon Dioxide Pipeline Order 2025 as an example with specific reference to Requirement 20. In response to further concerns raised by Interested Parties, Mr Griffiths explained that the need for clean electricity is national, not local, and its delivery is determined by available grid connection points—just as with nuclear, solar, or wind projects. He emphasised that the Applicant has not overstated the need; rather, it reflects national policy, which requires substantial weight to be given to the urgent need for renewable energy. He reiterated that imposing a requirement to delay the project would be contrary to policy and would pose an unacceptable risk to achieving net zero. The Applicant maintained that no additional requirement is justified in this case and confirmed that this position would be set out in writing following the hearing.* *The ExA asked whether any solar farm had previously been granted development consent in a situation where the grid connection was not yet consented.* *Mr Griffiths acknowledged that the Applicant is not aware of any such a case. He referenced the Sunnica Energy Farm Order 2024, where an extension to the existing substation was required for the generating station to connect into the electricity*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			transmission network which had not yet been consented at the point the Order was made. Mr Griffiths noted that in this case, the Secretary of State did not impose a requirement in that Order linking the solar PV generating station with the consenting of the substation extension. The Applicant will consider the position in the Viking CCS Carbon Dioxide Pipeline Order 2025. *Post hearing note: The Applicant has considered the Secretary of State's reasoning for including requirement 20 in the Viking CCS Carbon Dioxide Pipeline Order 2025 and does not consider that it changes any of its submissions made at ISH4 on why a requirement linking the Proposed Development to the Navenby substation is not justified in law or policy. The Viking scenario is not analogous to this Application, being a project with an onshore element (which includes a 55km pipeline) and the offshore works (which are separately consented and include the storage element which provides the 'net zero' benefit), which is a different and novel technology. Whereas this Application involves the Proposed Development which is onshore solar, with a connection to the proposed Navenby substation, which is being promoted by National Grid through a separate consenting process and will provide connection facilities for multiple generating stations (as National Grid provides for generating stations across the country). The separate consenting is supported in policy, is a routine consent for National Grid to apply for, and there is no policy need for a requirement linking the two consents. In any event, National Grid has a duty to connect the Proposed Development into the electricity transmission network.* *In response to Councillor Overton, Mr Griffiths clarified that National Grid is responsible for site selection and that its decision aligns with the government's Connections Action Plan, published in November 2023, which recognises the need for new substations to support renewable energy deployment. He*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			concluded that nothing in this examination predetermines the outcome of the substation application, which remains subject to NKDC's determination process. As confirmed above, the Applicant maintains this position and strongly disagrees that the proposed requirement is reasonable or necessary. Should the ExA and the Secretary of State disagree with the Applicant on this point, the Applicant has proposed below a draft requirement on a without prejudice basis and whilst strongly maintaining its objection to any such requirement. The requirement reflects that the Proposed Development is a nationally significant infrastructure project for which there is a demonstrated urgent need and its delivery is a Critical National Priority, and therefore at the very least in order to avoid unnecessary delay to the delivery of the Proposed Development, the Applicant should be able to undertake most minor permitted preliminary works (many of which do not constitute development requiring consent in the first place) and other works that either would have no adverse environmental effects (in line with the Applicant's Environmental Statement), or which can be reversed and would not have significant adverse effects, meaning any effect would only be temporary (in a situation where the Navenby substation did not come forward). Draft requirement provided without prejudice to the Applicant's position: *Grid connection* *24. (1) Subject to sub-paragraph (2), no part of the authorised development, including parts (h) and (i) of the permitted preliminary works, shall commence until planning permission has been granted for the National Grid Navenby Substation.*

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			(2) The restriction in sub-paragraph (1) shall not apply to: *(a) parts (a) – (g) inclusive of the permitted preliminary works;* *(b) Work Nos. 9(a) (landscape and biodiversity mitigation and enhancement areas), 9(b) (habitat creating and management), 9(e) (earth bund), 9(f) (screening), and parts (b), (c), (e), (h), (k), and (m) of the list of further associated development listed at the end of Schedule 1; and* *(c) any additional works comprised in the authorised development as are agreed by the relevant planning authority where the undertaker has demonstrated to the reasonable satisfaction of the relevant planning authority that:* *(i) such works would not be likely to give rise to any significant adverse effects and could be reversed; or* *(ii) such works would not be likely to give rise to any adverse effects.* *(3) If planning permission has not been granted for the National Grid Navenby Substation within 5 years of the date this Order takes effect the undertaker must, in relation to any works undertaken pursuant to sub-paragraph (2), agree with the relevant planning authority:* *(i) that such works (or part of) will remain in place; or* *(ii) that such works (or part of) will be removed and the land reinstated.* The Applicant has proposed this without prejudice drafting following careful consideration of works that could be undertaken that either would not give rise to any adverse environmental effects, or which may give rise to less than significant adverse effects but which could be reversed and the land reinstated if necessary. The Applicant has built in a

Ref	ExA's suggested changes	ExA's comments	The Applicant's comments
			mechanism so that if the National Grid Navenby Substation was not granted planning permission within the time available to implement the DCO, the Applicant would need to ensure that what happens to the works it has undertaken is agreed with the relevant planning authority. This could mean the works remain in place (due to not having adverse environmental effects) and that is likely to be as a result of being authorised under the DCO, or alternatively because they are works not requiring planning permissions in the first place (for example, some of the permitted preliminary works which do not amount to development), or pursuant to permitted development rights or a retrospective planning permission (for example, if the parties agreed the DCO had not been implemented and so could not authorise the works undertaken). The mechanism pursuant to paragraph (3) also provides for agreement where works need to be removed and the land reinstated – an example of this could be if the Applicant develops the earth bund.

Springwell
Solar Farm

springwellsolarfarm.co.uk

Application Document Ref: EN010149/APP/8.27
Planning Inspectorate Scheme Ref: EN010149