Planning Inspectorate

The Planning Act 2008

Springwell Solar Farm

Examining Authority's Report
of Findings and Conclusions
and
Recommendation to the Secretary of State for
Energy Security and Net Zero

Examining Authority

Jonathan Manning BSc (Hons) MA MRTPI (Lead member of the Panel)

Benjamin Northover BArch MArchD ADPP(Arch)

8 January 2026

Planning Inspectorate

ERRATA SHEET – Springwell Solar Farm - Ref. EN010149

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security and Net Zero, dated 8 January 2026

Corrections agreed by the Examining Authority prior to a decision being made

Page No.	Paragraph	Error	Correction
150	10.5.6	"The ExA is satisfied that these measures are properly secured in requirements R5, R12, R13 and R19 of the dDCO"	Typographical? Should this also include reference to Requirement 15 – operational noise?
112	8.4.8	The proposed development occupies approximately 0.13% of this land, of which 0.002% is assessed as being permanently used as green infrastructure.	Wrong calculation? Typographical? It appears this calculation should be 0.02%? 77ha ÷ 410,000) x 100
146	10.3.12	… T is the the A - weighted, equivalent continuous sound level of an industrial noise during a specified time period,	This appears to be a simple typographical duplication error.

[This page is intentionally blank]

OVERVIEW

File Ref: EN010149

The application, dated 20 November 2024, was made under section 37(2) of the Planning Act 2008 and was received in full by the Planning Inspectorate on that date.

The applicant is Springwell Energy Farm Limited.

The application was accepted for examination on 18 December 2024.

The examination of the application began on 7 May 2025 and was completed on 8 October 2025.

The proposed development comprises the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) array electricity generating facility with associated infrastructure with a total capacity exceeding 50 megawatts (MW) and export connection to the National Grid.

Summary of recommendation:

The Examining Authority recommends that the Secretary of State for Energy Security and Net Zero should make the Order in the form attached at Appendix C.

REPORT TABLE OF CONTENTS

1. INTRODUCTION 6
1.1. BACKGROUND TO THE EXAMINATION 6
1.2. APPOINTMENT OF THE EXAMINING AUTHORITY 6
1.3. THE APPLICATION 6
1.4. PRE-EXAMINATION 11
1.5. THE EXAMINATION 12
1.6. CHANGES TO THE APPLICATION 13
1.7. OTHER UNDERTAKINGS, AGREEMENTS AND CONSENTS 13
1.8. STRUCTURE OF THIS REPORT 14
2. HOW THE APPLICATION IS DETERMINED 16
2.1. INTRODUCTION 16
2.2. LEGISLATION AND POLICY 16
2.3. NATIONAL POLICY STATEMENTS 17
2.4. OTHER NATIONAL POLICY 18
2.5. LOCAL IMPACT REPORTS 18
2.6. ENVIRONMENTAL IMPACT ASSESSMENT 19
2.7. HABITATS REGULATIONS ASSESSMENT 19
2.8. TRANSBOUNDARY EFFECTS 19
3. INTRODUCTION TO THE PLANNING ISSUES 21
3.1. INTRODUCTION 21
3.2. INITIAL ASSESSMENT OF PRINCIPAL ISSUES 21
3.3. THE PLANNING ISSUES IN THIS REPORT 21
4. PRINCIPLE OF DEVELOPMENT, INCLUDING CLIMATE CHANGE 23
4.1. INTRODUCTION 23
4.2. LEGISLATION AND POLICY BACKGROUND 23
4.3. THE APPLICATION 25
4.4. ISSUES CONSIDERED DURING THE EXAMINATION 33
4.5. EXA'S CONCLUSIONS ON THE PRINCIPLE OF DEVELOPMENT, INCLUDING CLIMATE CHANGE 49
5. AIR QUALITY 51
5.1. INTRODUCTION 51
5.2. POLICY BACKGROUND 51
5.3. THE APPLICATION 52
5.4. ISSUES CONSIDERED DURING THE EXAMINATION 54
5.5. EXA'S CONCLUSIONS ON AIR QUALITY 56
6. BIODIVERSITY 58
6.1. INTRODUCTION 58
6.2. POLICY BACKGROUND 58
6.3. THE APPLICATION 59
6.4. ISSUES CONSIDERED DURING THE EXAMINATION 69
6.5. EXA'S CONCLUSIONS ON BIODIVERSITY 81

7. CULTURAL HERITAGE 83
7.1. INTRODUCTION 83
7.2. POLICY BACKGROUND 83
7.3. THE APPLICATION 84
7.4. ISSUES CONSIDERED DURING THE EXAMINATION 89
7.5. EXA'S CONCLUSIONS ON CULTURAL HERITAGE 95
8. LAND, SOIL AND GROUNDWATER 98
8.1. INTRODUCTION 98
8.2. POLICY BACKGROUND 98
8.3. THE APPLICATION 99
8.4. ISSUES CONSIDERED DURING THE EXAMINATION 107
8.5. EXA'S CONCLUSIONS ON LAND, SOIL AND GROUNDWATER 117
9. LANDSCAPE AND VISUAL IMPACT 119
9.1. INTRODUCTION 119
9.2. POLICY BACKGROUND 119
9.3. THE APPLICATION 120
9.4. ISSUES CONSIDERED DURING THE EXAMINATION 129
9.5. EXA'S OVERALL CONCLUSIONS ON LANDSCAPE AND VISUAL IMPACT 140
10. NOISE AND VIBRATION 142
10.1. INTRODUCTION 142
10.2. POLICY BACKGROUND 142
10.3. THE APPLICATION 143
10.4. ISSUES CONSIDERED DURING THE EXAMINATION 145
10.5. EXA'S CONCLUSIONS ON NOISE AND VIBRATION 147
11. POPULATION 149
11.1. INTRODUCTION 149
11.2. POLICY BACKGROUND 149
11.3. THE APPLICATION 150
11.4. ISSUES CONSIDERED DURING THE EXAMINATION 154
11.5. EXA'S CONCLUSIONS ON POPULATION 161
12. TRAFFIC AND TRANSPORT 163
12.1. INTRODUCTION 163
12.2. POLICY BACKGROUND 163
12.3. THE APPLICATION 164
12.4. ISSUES CONSIDERED DURING THE EXAMINATION 166
12.5. EXA'S CONCLUSIONS ON TRAFFIC AND TRANSPORT 171
13. WATER ENVIRONMENT 175
13.1. INTRODUCTION 175
13.2. POLICY BACKGROUND 175
13.3. THE APPLICATION 176
13.4. ISSUES CONSIDERED DURING THE EXAMINATION 178
13.5. EXA'S CONCLUSIONS ON THE WATER ENVIRONMENT 184

14. OTHER MATTERS 189
14.1. INTRODUCTION 189
14.2. WASTE MANAGEMENT 189
14.3. MINERAL SAFEGUARDING 192
14.4. AVIATION AND DEFENCE 194
14.5. MAJOR ACCIDENTS AND DISASTERS 197
15. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT 199
15.1. INTRODUCTION 199
15.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS 199
15.3. EXA'S CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT 201
16. CASE FOR MAKING A DEVELOPMENT CONSENT ORDER 202
16.1. INTRODUCTION 202
16.2. HERITAGE BALANCE 203
16.3. MAIN PLANNING ISSUES 204
16.4. THE OVERALL PLANNING BALANCE 205
17. COMPULSORY ACQUISITION AND RELATED MATTERS 209
17.1. INTRODUCTION 209
17.2. LEGISLATIVE REQUIREMENTS 209
17.3. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS 211
17.4. THE PURPOSES FOR WHICH LAND IS REQUIRED 212
17.5. EXAMINATION OF THE COMPULSORY ACQUISITION AND TEMPORARY POSSESSION CASE 212
17.6. MATTERS RAISED IN THE EXAMINATION/ OBJECTIONS TO COMPULSORY ACQUISITION AND TEMPORARY POSSESSION FROM AFFECTED PERSONS 214
17.7. STATUTORY UNDERTAKERS 217
17.8. CROWN LAND 219
17.9. HUMAN RIGHTS ACT 1998 AND EQUALITIES ACT 2010 CONSIDERATIONS 219
17.10. EXA'S CONCLUSIONS ON COMPULSORY ACQUISITION AND RELATED MATTERS 220
18. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS 222
18.1. INTRODUCTION 222
18.2. THE ORDER AS APPLIED FOR 222
18.3. CHANGES DURING EXAMINATION 224
18.4. ORDER PROVISIONS WITH OUTSTANDING OBJECTIONS 226
18.5. EXA'S CONCLUSIONS ON THE DEVELOPMENT CONSENT ORDER AND RELATED MATTERS 229
19. SUMMARY OF FINDINGS AND CONCLUSIONS 230
19.1. INTRODUCTION 230
19.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS 230
19.3. RECOMMENDATION 231
APPENDICES I

APPENDIX A: KEY LEGISLATION AND DEVELOPMENT PLAN POLICIES II
APPENDIX B: ABBREVIATIONS VII
APPENDIX C: THE RECOMMENDED DCO XIII

LIST OF FIGURES

Figure 1: Location Plan 7
Figure 2: Order Limits Plan 8
Figure 3: Illustrative Plan of Proposed Development 10
Figure 4: Heritage Assets in the Study Area 86
Figure 5: Agricultural Land Classification Identified in the Application Site 100
Figure 6: Cumulative Solar Development and National Character Area 47 131
Figure 7: Cumulative Solar Development and Landscape Character Areas 7 and 11 132

LIST OF TABLES

Table 1: Amount of Land in Each Agricultural Land Classification Grade 100
Table 2: Summary of Findings on Main Planning Issues 204

1. INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

1.1.1. An application (the application) for Springwell Solar Farm (the proposed development), Planning Inspectorate reference EN010149, was submitted by Springwell Energy Farm Limited (the applicant) to the Planning Inspectorate on 20 November 2024 under section (s) 37(2) of the Planning Act 2008 (PA2008) and accepted for examination under s55 of the PA2008 on 18 December 2024 [PD-001]. This report sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State (SoS) for Energy Security and Net Zero.

1.1.2. The legislative tests for whether the proposed development is a Nationally Significant Infrastructure Project (NSIP) were considered by the SoS for Housing, Communities and Local Government in its decision to accept the application for examination in accordance with s55 of the PA2008 [PD-001].

1.1.3. The proposed development is an NSIP as it comprises an onshore electricity generating station with a capacity of more than 50 megawatts (MW) and falls within s15(2) of the PA2008. It therefore requires development consent in accordance with s31 of the PA2008.

1.1.4. The Examination Library (EL) provides a record of all application documents and submissions to the examination, each of which is given a unique reference number eg. [APP-001]. The reference numbers are used throughout this report and hyperlinks are included to allow the reader to access them directly.

1.1.5. This report does not contain extensive summaries of the documents and representations received. Readers are referred to relevant material using linked EL references. Full regard has been had to all such material and to all important and relevant matters arising from it in all conclusions drawn by the ExA and the recommendation made in this report.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

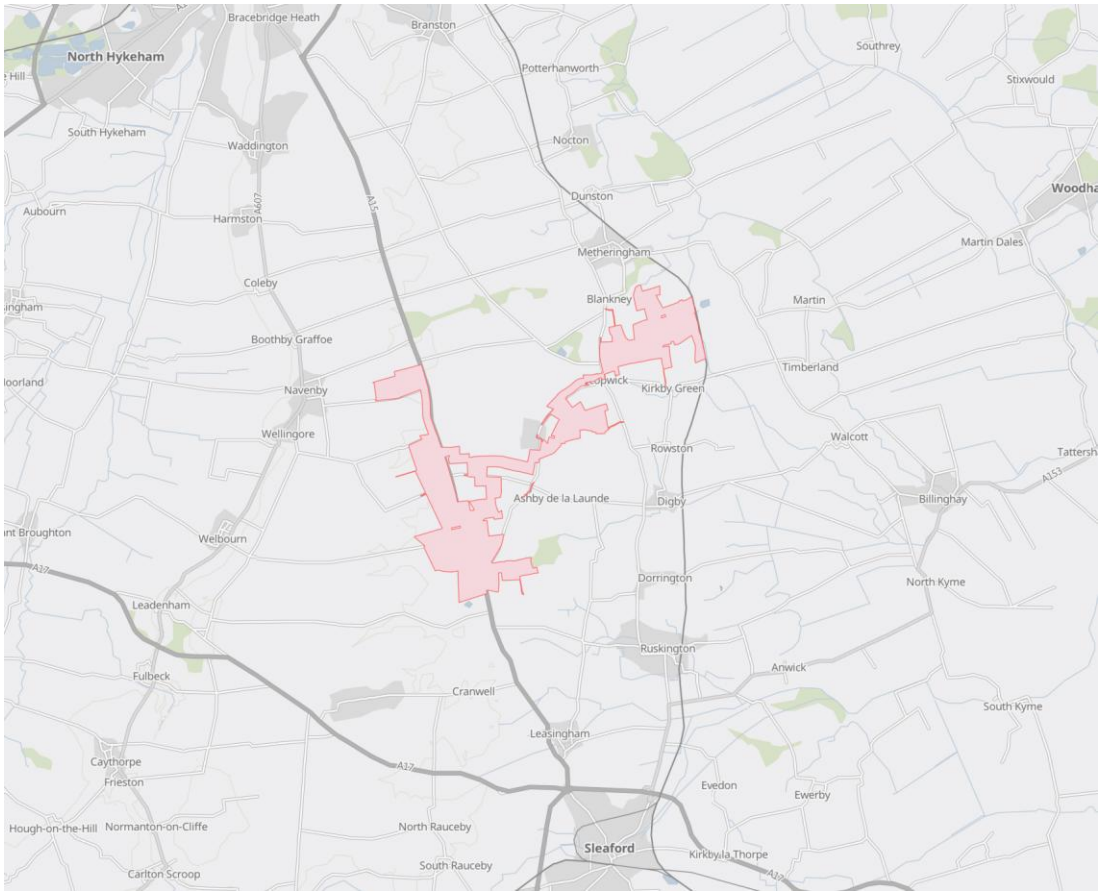
1.2.1. On 5 February 2025, Jonathan Manning (Lead Member) and Benjamin Northover were appointed as the ExA for the application under s61 and s65 of PA2008 [PD-004].

1.3. THE APPLICATION

LOCATION OF THE PROPOSED DEVELOPMENT

1.3.1. The location of the proposed development is shown in the Location Plan [APP-058] (extract shown in Figure 1 below) and the final versions of the Land Plans [AS-004]. The site encompasses approximately 1,280 hectares and lies within the administrative boundaries of North Kesteven District Council (NKDC) and Lincolnshire County Council (LCC) and is wholly in England.

Figure 1: Location Plan



1.3.2. Chapter 2 of the Environmental Statement (ES) [APP-042] and the Design Approach Document [APP-0137] provide a detailed description of the site and surrounding area. The site is located on a broad plateau to the east of the Lincolnshire Cliff escapement on a dip slope that undulates gently towards the edge of the fens in the east.

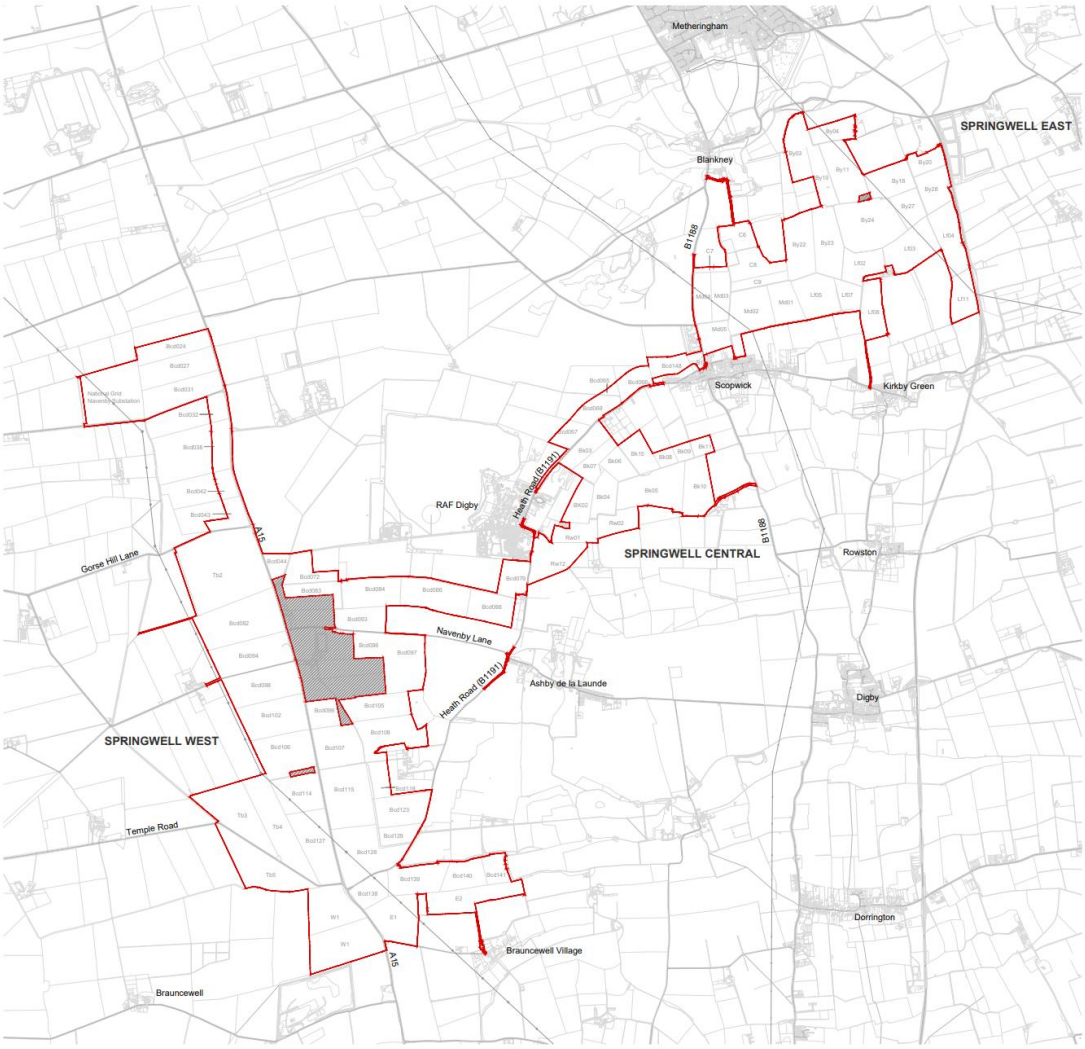
1.3.3. The area consists of agricultural fields, interspersed with hedgerows, small woodland blocks and farm access tracks. The landform across the plateau is gently undulating. Ridges and dips run across the plateau in an east-west direction following shallow 'dry' valleys. The plateau has a history of use for airfields and Royal Air Force (RAF) airbases. Modern large scale arable farming now sits alongside an older, sparse settlement pattern of small-scale hamlets and isolated farmsteads.

1.3.4. The proposed development site is made up of three connected parcels of land described as: Springwell West, Springwell Central and Springwell East. The three parcels can be seen on the Order Limits Plan [APP-058] (extract shown in Figure 2 below). There is variation in the features immediately surrounding each of the three land parcels as follows:

- Springwell West is characterised by relatively open agricultural landscape and lies adjacent to the Bloxham Wood Nature Reserve in the south-east.

- Springwell Central is directly adjacent to RAF Digby air force base and the B1191 to the west, Ashby de la Launde to the south and relatively open agricultural fields to the east.
- Springwell East is bounded by the settlements of Scopwick to the south, Kirkby Green to the south-east, Blankney in the north, the B1188 to the west and the Peterborough to Lincoln railway line to the east.

Figure 2: Order Limits Plan



DESCRIPTION OF THE PROPOSED DEVELOPMENT

1.3.5. The proposed development is a solar photovoltaic (PV) electricity generating and battery storage facility with associated infrastructure which would allow for the generation and export of electricity exceeding 50MW.

1.3.6. Full details of the proposed development are set out in Chapter 3 (Proposed Development Description) of the ES [APP-043]. The proposed development works comprise:

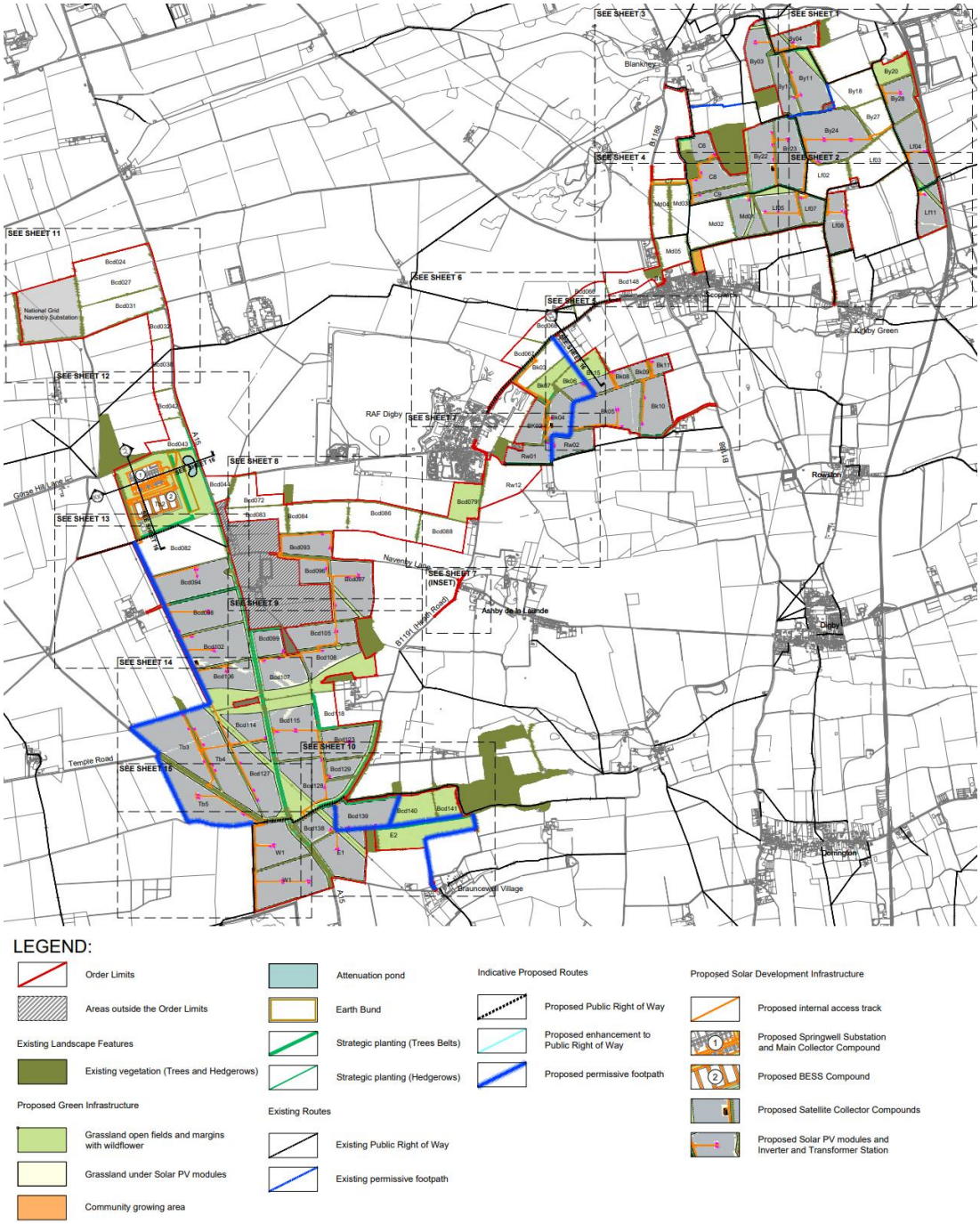
Work number 1 - Ground-mounted Solar PV Generating Station.

Work number 2 - Springwell Substation Compound.
Work number 3 - Satellite Collector Compounds.
Work number 4 - Battery Energy Storage System (BESS) Compound.
Work number 5 - Grid Connection Infrastructure.
Work number 6 - Cables.
Work number 7 - Temporary Construction and Decommissioning Compounds.
Work number 8 - Highways Works.
Work number 9 - Green Infrastructure.

1.3.7. Further details of the proposal for each work number (including relevant definitions) can be found in Schedule 1 of the recommended Development Consent Order (rDCO) in Appendix C.

1.3.8. The Work Plans [APP-007] set the spatial extent of each work number described above. The general layout of the proposed development, including the areas for solar PV arrays, location of the proposed substation, BESS compound, satellite collector compounds, and the proposed green infrastructure areas, is shown on the Illustrative Layout Plans & Sections [AS-006] (extract with enlarged legend shown below in Figure 3).

Figure 3: Illustrative Plan of Proposed Development



1.3.9. Section 3.2 of the ES [APP-043] explains the applicant's approach to project parameters and the Rochdale Envelope. It explains that it is important to note that the exact design details of the proposed development cannot be confirmed until after consent is granted; where the construction tendering process for the design has been completed and the local planning authority have approved the detailed design. This is to allow for flexibility to accommodate changes in technological advancements. The applicant has therefore adopted the Rochdale Envelope approach which involves specifying parameter ranges, including details of the size, technology, and locations of the different elements of the proposed development where flexibility needs to be retained. This is used to present a likely worst-case

assessment of the potential environmental effects of the proposed development. The Rochdale Envelope is an established and accepted approach for applications made under the PA2008.

1.3.10. As stated above, the spatial extent parameters are set out in the Works Plans [APP-007]. The quantitative parameters for each work number are set out in Appendix 3.1 of the ES (Project Parameters) [APP-074]. Specific design requirements for the detailed design stage including commitments relating to the size, type and colour of elements of the proposed development are set out in the Design Commitments document [APP-0138]. The Project Parameters and Design Commitments would be secured by Requirement (R) 5 of the rDCO.

1.3.11. The construction of the proposed development would be anticipated to commence, at the earliest, in 2027. The construction phase is anticipated to be split into two phases over a 48-month construction period and commissioning. The proposed development has phased grid connection dates of October 2029 and October 2030 [REP1-058].

1.3.12. The operational life of the proposed development is 40 years from the date of final commissioning of each phase. Decommissioning of the proposed development would need to be carried out in accordance with the Decommissioning Environmental Management Plan (DEMP), to be approved by the relevant planning authority in accordance with the final outline DEMP [REP4-035].

RELEVANT PLANNING HISTORY

1.3.13. As an agricultural site, the relevant planning history of the land within the order limits is limited with the exception of an extant planning permission for development of a solar PV farm and associated infrastructure (NKDC reference: 14/0937/FUL) for land in Springwell East.

1.3.14. A schedule of planning history is provided in Appendix 4 of the Planning Statement [AS-018]. This appendix indicates that there are no pending or other extant planning permissions across the order limits.

1.4. PRE-EXAMINATION

THE PERSONS INVOLVED

1.4.1. The persons involved in the examination were:

- Persons who were entitled to be interested parties (IPs) because they had made a Relevant Representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (APs) who were affected by a compulsory acquisition (CA) and/ or temporary possession (TP) proposal made as part of the application and objected to it at any stage in the examination.

LOCAL AUTHORITIES

1.4.2. The host local authorities for the application are LCC and NKDC.

RELEVANT REPRESENTATIONS

1.4.3. A total of 443 Relevant Representations have been received by the Planning Inspectorate about the application. The very large majority of these are opposed to the proposed development with 6 of the RR expressing support for it. All RRs have been considered by the ExA. The main issues that they raise are considered in the relevant topic specific sections of this report.

1.5. THE EXAMINATION

START OF THE EXAMINATION

1.5.1. The Preliminary Meeting (PM) took place on 7 May 2025 [EV2-005]. The ExA's Procedural Decisions (PD) and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 letter dated 13 May 2025 [PD-006].

1.5.2. The examination began on 7 May 2025 and concluded on 8 October 2025. The principal components of and events around the examination can be seen in the Examination Timetable and are summarised below.

PROCEDURAL DECISIONS

1.5.3. The PDs taken by the ExA are recorded in the EL, with references starting with [PD-]. They detail the ExA's decisions relating to the procedure of the examination and did not bear on the ExA's consideration of the planning merits of the proposed development. All were broadly discharged as intended and no further reference is made to them in this report.

STATEMENTS OF COMMON GROUND

1.5.4. By the end of the examination, the following bodies had concluded and signed Statements of Common Ground (SoCG) with the applicant:

- Anglian Water Services Ltd [REP5-015].
- Cadent Gas Ltd [REP5-016].
- National Grid Electricity Transmission plc [REP5-017].
- Lincolnshire Fire and Rescue Service [REP5-021].
- Exolum Pipeline System Ltd [REP5-018].
- Lincolnshire County Council [REP5-021].
- North Kesteven District Council [REP5-022].
- Historic England [REP5-023].
- Natural England [REP4-043].
- Environment Agency [REP3-065].
- UK Health Security Agency [REP3-066].
- Ministry of Defence [REP5-024].
- National Highways [REP3-071].

1.5.5. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this report. A draft SoCG had been under discussion between the applicant and Network Rail [REP5-025] but it was not signed at the end of the examination.

WRITTEN QUESTIONS, SITE INSPECTIONS AND HEARINGS

1.5.6. The ExA asked two rounds of written questions, ExQ1 [PD-007] and ExQ2 [PD-010].

1.5.7. The ExA carried out two Unaccompanied Site Inspections (USIs): USI1 on 10 and 11 March 2025 [EV1-001], and USI2 on 14 July 2025 [EV1-002]. The ExA carried out one Accompanied Site Inspection (ASI) on 18 July 2025 [EV9-001].

1.5.8. Hearings were held under s91 PA2008 into specific issues (ISHs), under s92 PA2008 into the compulsory acquisition of land and rights (CAHs) and under s93 PA2008 providing for open floor hearings (OFHs).

1.5.9. Four ISHs were held: ISH1 on 8 May 2025 [EV4-001 to EV4-014], ISH2 on 15 July 2025 [EV5-001 to EV5-008], ISH3 on 16 July 2025 [EV6-001 to EV6-010] and ISH4 on 17 July 2025 [EV7-001 to EV7-008]. One CAH was held on 17 July 2025 [EV8-001 to EV8-004]. Two OFHs were held: OFH1 on 7 May 2025 [EV3-001 to EV3-005] and OFH2 on 15 July 2025 [EV10-001 to EV10-005].

1.6. CHANGES TO THE APPLICATION

1.6.1. Changes to the key application documents, including the wording of the dDCO, were submitted and updated during the examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the examination.

1.6.2. The applicant's changes to the application documents, together with any additional information submitted, are detailed in the application guide submitted at D1 [REP1-002], D2 [REP2-002], D3 [REP3-002], D4 [REP4-002] and D5 [REP5-002]. This provides a guide to all documents submitted as part of the application and was updated at each deadline when new or revised documents were submitted. It provides a full record of all documentation submitted into the examination.

1.7. OTHER UNDERTAKINGS, AGREEMENTS AND CONSENTS

1.7.1. At the close of the examination there was an unsigned draft agreement under s106 of the Town and Country Planning Act 1990 [REP5-029] between NKDC, LCC, Springwell Energyfarm Ltd, Blankney Estates Ltd and HSBC UK Bank PLC. The s106 agreement relates to a Skills and Education Contribution and an Ecological Steering Group Contribution. The draft s106

agreement is referred to, where relevant, in subsequent sections of this report.

1.7.2. Some parties have confirmed that, during the examination, they have reached private agreements with the applicant regarding protection of their assets and/ or interests. These are referred to, where relevant, in subsequent sections of this report.

1.7.3. In addition to the consents required under the PA2008, the applicant would require other consents to construct, operate and maintain the proposed development. These are identified in the schedule of other consents and licences [APP-014].

1.8. STRUCTURE OF THIS REPORT

1.8.1. The structure of the remainder of this report is as follows:

- Chapter 2 identifies how the application is to be determined and summarises the key legislation and policy context that applies to the decision.
- Chapter 3 identifies the main planning issues.
- Chapters 4 to 14 set out the findings and conclusions in relation to the individual planning issues that arose from the application and during the examination:
    - Chapter 4: Principle of the Development, including Climate Change.
    - Chapter 5: Air Quality.
    - Chapter 6: Biodiversity.
    - Chapter 7: Cultural Heritage.
    - Chapter 8: Land, Soil and Groundwater.
    - Chapter 9: Landscape and Visual Impact.
    - Chapter 10: Noise and Vibration.
    - Chapter 11: Population.
    - Chapter 12: Traffic and Transport.
    - Chapter 13: Water Environment.
    - Chapter 14: Other Matters.
- Chapter 15 provides a record of considerations relevant to the Habitats Regulations Assessment (HRA).
- Chapter 16 sets out the balance of planning considerations arising from Chapters 2 to 16 in the light of important and relevant factual, legal and policy considerations.
- Chapter 17 sets out the ExA's examination of compulsory acquisition and related matters.
- Chapter 18 considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- Chapter 19 summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.8.2. This report is supported by the following appendices:

- Appendix A - Key Legislation and Development Plan Policies.

- Appendix B - Abbreviations.
- Appendix C - The Recommended DCO.

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

2.1.1. This chapter identifies the key legislation, policy and Local Impact Reports (LIRs) that the Examining Authority's (ExA) recommendations have taken into account.

2.2. LEGISLATION AND POLICY

2.2.1. This section identifies the key legislation and policy that the ExA considers to be important and relevant to its findings and recommendations to the Secretary of State (SoS). More detail is provided in Appendix A to this report.

PLANNING ACT 2008

2.2.2. The Planning Act 2008 (PA2008) provides a different basis for decision-making for Nationally Significant Infrastructure Project (NSIP) applications where a relevant National Policy Statement (NPS) (s104) has effect from that where no NPS has effect (s105). This is an application in respect of which there is an NPS in effect.

2.2.3. The ExA has considered the statutory basis for examination, reporting and decision-making and has concluded that these must proceed under PA2008 s104. There are no substantial elements of the proposed development that fall outside the remit of relevant NPS policies and so PA2008 s105 is not relevant.

2.2.4. Section 104(2) of the PA2008 sets out the matters to which the SoS must have regard when making its decision. These include:

- any relevant NPS.
- any duly submitted Local Impact Report (LIR).
- any matters prescribed in relation to the development.
- any other matters the SoS thinks are both important and relevant to the decision.

2.2.5. Section 104(3) of the PA2008 requires the SoS to decide the application in accordance with any relevant NPS that has effect in relation to this application, subject to the exceptions in s104(4) to (8) as follows:

- where deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations.
- where deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her or him by or under any enactment.
- where deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment.
- where the adverse impact of the proposed development would outweigh its benefits.

- where any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

2.2.6. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying s104 of the PA2008.

OTHER LEGISLATION

2.2.7. A full list of relevant primary and secondary legislation, including but not limited to duties arising under the Equality Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in Appendix A to this report. All applicable legislation has been considered by the ExA as required and the findings and recommendations in this report are framed to identify and enable the SoS to discharge all applicable statutory considerations or duties.

2.3. NATIONAL POLICY STATEMENTS

2.3.1. NPSs set out Government policy on different types of national infrastructure development. Having regard to the purposes of s104(2)(a) of the PA2008, the ExA considers that NPS EN-1 (overarching NPS for energy) and NPS EN-3 (renewable energy infrastructure) form the primary policy context for this examination. NPS EN-5 (electricity networks) is also of some relevance since it applies to underground cables.

2.3.2. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying the approach set out in s104 of the PA2008. The purpose and broad content of these NPSs is summarised here. Specific provisions of the NPSs are considered as they relate to topic areas in this report.

2.3.3. On 6 January 2026, new versions of NPS EN-1, NPS EN-3 and NPS EN-5 came into force. The transitional provisions set out within them state that they will have effect only in relation to those applications for development consent accepted for examination after their publication. Consequently, the ExA has considered the proposed development against the 2024 versions and for the avoidance of any doubt, all references to the NPSs in this report relate to the 2024 versions.

OVERARCHING NATIONAL POLICY STATEMENT FOR ENERGY (NPS EN-1)

2.3.4. NPS EN-1 sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. All other energy NPSs sit within the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted for energy development.

2.3.5. Part 3 of EN-1 paragraph 3.1.1 explains that the UK Government sees a need for significant amounts of new large scale energy infrastructure to meet its energy objectives and goes on to set out that there is a critical national

priority (CNP) for the provision of nationally significant low carbon infrastructure.

NATIONAL POLICY STATEMENT FOR RENEWABLE ENERGY INFRASTRUCTURE (NPS EN-3)

2.3.6. The 2024 version of this NPS brought into its scope for the first time solar photovoltaic (PV) schemes with a capacity of more than 50MW. It is concerned with impacts and other matters which are specific to, among other forms of renewable generation, solar PV, including site selection, climate change adaptation and resilience, good design and flexibility in project details.

2.3.7. The NPS also covers situations where the impact or issue is generic and dealt with in NPS EN-1 but there are further specific considerations arising from the technologies covered. Considerations in the case of solar PV include site location factors, site capacity, site layout, design and appearance, project lifetime and decommissioning as well as environmental impacts.

NATIONAL POLICY STATEMENT FOR ELECTRICITY NETWORKS (NPS EN-5)

2.3.8. NPS EN-5 is the primary basis for decisions on transmission and distribution system NSIPs and associated infrastructure. EN-5's relevance to the proposed development is limited to the grid connection. EN-1 paragraph 4.11.4 on grid connection refers to EN-5 for further guidance on relevant considerations, including the impact of electromagnetic fields.

2.4. OTHER NATIONAL POLICY

2.4.1. The ExA has considered other relevant government policy, which is set out in Appendix A.

2.5. LOCAL IMPACT REPORTS

2.5.1. LIRs were submitted into the examination at Deadline 1 by Lincolnshire County Council (LCC) [REP1-088] and North Kesteven District Council (NKDC) [REP1-102]. LIR content has been considered through the examination and in this report. It must be considered during the decision by the SoS pursuant to PA2008 s104(2)(b). The issues raised are considered in further detail in relation to relevant planning issues of this report.

2.5.2. Amongst other matters, LIRs identify local policies (including those from the Development Plan) which are capable of being important and relevant considerations under s104(2)(d) of the PA2008. Appendix A lists the individual local policies that are relevant to the proposed development.

2.5.3. For an application proceeding under s104 PA2008, subsection (3) requires that the SoS must decide the application in accordance with any relevant NPS, except to the extent that one or more of the exceptions set out in

subsections (4) to (8) applies. Where a relevant local policy and designated NPS policy are in conflict, the effect of this duty (subject to any applicable exception) is to establish a presumption in favour of NPS policy in the SoS' decision-making.

2.6. ENVIRONMENTAL IMPACT ASSESSMENT

2.6.1. The applicant provided a notification under Regulation 8(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) of its intention to provide an Environmental Statement (ES). Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the ExA determined that the proposed development was EIA development.

2.6.2. On 22 March 2023, the applicant submitted a Scoping Report to the SoS under Regulation 10 of the EIA Regulations in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion) [APP-075]. On 2 May 2023, the Planning Inspectorate provided a Scoping Opinion [APP-076].

2.6.3. Overall, the ExA considers that the ES, as supplemented with additional information during the examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

2.6.4. The ExA considered that changes to the documentation, comprising the ES during the examination, did not individually or cumulatively undermine the scope and assessment of the ES. Chapters 4 to 14 of this report summarise the environmental effects under each topic section. The documents that make up the ES can be seen in the Examination Library [APP-040 to APP-134].

2.7. HABITATS REGULATIONS ASSESSMENT

2.7.1. The SoS is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

2.7.2. The proposed development is one that has been identified as not giving rise to the potential for likely significant effects (LSE) on European sites. A Habitat Regulation Assessment - HRA - No Significant Effects Report [APP-150] was submitted with the application. Chapter 15 of this report considers these matters.

2.8. TRANSBOUNDARY EFFECTS

2.8.1. A transboundary screening under Regulation 32 of the EIA Regulations was undertaken on behalf of the SoS on 2 May 2023 [APP-076] following the applicant's request for an EIA Scoping Opinion. No significant effects were identified on the environment in a European Economic Area (EEA) member state. The Regulation 32 duty is an ongoing duty, and on that basis, the ExA

has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the examination. The ExA considers that no information came to light during the examination to alter this conclusion.

3. INTRODUCTION TO THE PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This chapter introduces the Examining Authority's (ExA) findings and conclusions on the planning issues. It reviews the initial assessment of principal issues (IAPI) and explains how the issues identified there have been managed.

3.1.2. The planning issues considered in this report are addressed in individual issues-based chapters which follow on from this chapter. In each following chapter, the ExA will identify the policy background, followed by a summary of the application as made, then report on the main issues for each topic.

3.2. INITIAL ASSESSMENT OF PRINCIPAL ISSUES

3.2.1. As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the ExA made an IAPI arising from the application in advance of the Preliminary Meeting (PM). This formed an initial assessment of the key issues based on the application documents and submitted Relevant Representations (RR). The list of issues relates to all phases of the proposed development. The IAPI can be found in Annex C of the Rule 6 letter [PD-005]. The IAPI was raised at the PM and after discussions, the ExA added health and well-being, as advised in the Rule 8 letter [PD-006]. The issues identified in the IAPI are as follows:

- Air Quality, including the Battery Energy Storage System Plume Assessment.
- Alternatives and Site Selection.
- Biodiversity, including Biodiversity Net Gain Proposals.
- Climate Change.
- Cultural Heritage and Archaeological Trial Trenching.
- Cumulative Effects.
- Grid Connection.
- Health and Well-Being.
- Land, Soils and Groundwater, including Effects on Best and Most Versatile Agricultural Land.
- Landscape and Visual Impact.
- Traffic and Transport, including Public Rights of Way.
- Water Environment and Flood Risk.

3.3. THE PLANNING ISSUES IN THIS REPORT

3.3.1. The ExA considers that the issues raised by IPs were broadly in line with the IAPI and were subject to written and oral questioning during the examination. These are the issues that the ExA has primarily used to structure most of the following sections in this report which address each issue in turn. Health and well-being have been considered in a broader chapter that considers effects on the population, including socio-economic matters. Whilst not listed in the

IAPI, there is also a chapter on noise and vibration given the matters discussed during the examination. It should be noted that whilst there is not a specific chapter on cumulative effects, each topic specific chapter set out below considers such matters.

3.3.2. It should also be noted that the IAPI is a high-level framework. The ExA has nevertheless had regard to all important relevant matters arising from submissions from IPs and has reported on these, if required, within each chapter below.

3.3.3. The planning issues considered in this report are as follows:

- Chapter 4: Principle of the Development, including Climate Change.
- Chapter 5: Air Quality.
- Chapter 6: Biodiversity.
- Chapter 7: Cultural Heritage.
- Chapter 8: Land, Soil and Groundwater.
- Chapter 9: Landscape and Visual Impact.
- Chapter 10: Noise and Vibration.
- Chapter 11: Population.
- Chapter 12: Traffic and Transport.
- Chapter 13: Water Environment.
- Chapter 14: Other Matters.

In these chapters of the report the ExA gives weight for or against the making of the order on the scale of:

- Neutral.
- A little weight.
- Moderate weight.
- Great weight.
- Very great/ substantial weight.

The conclusions and weights for each topic are then taken forward to Chapter 16 for the overall consideration of the planning balance and the case for development consent.

The ExA's conclusions take account of all relevant legislation and policy, and of all written and oral submissions. The ExA focus on matters that are considered to be important and relevant to the decision. The ExA do not necessarily report on matters that it considers are either not controversial, are agreed between the parties, or are adequately justified by the applicant.

4. PRINCIPLE OF DEVELOPMENT, INCLUDING CLIMATE CHANGE

4.1. INTRODUCTION

4.1.1. This chapter sets out the ExA's consideration of the principle of the development. It examines the need, alternatives considered in the site selection, electricity generation and grid connection, decommissioning and the approach to cumulative effects assessment. It should be noted that this chapter considers the general approach to cumulative effects assessment, whilst the consideration of cumulative effects is undertaken in each of the topic specific chapters, where necessary.

4.1.2. The effects of the proposed development on climate change, including greenhouse gas (GHG) emissions, also form part of the need case and are therefore also addressed in this chapter.

4.2. LEGISLATION AND POLICY BACKGROUND

NEED, INCLUDING CLIMATE CHANGE

Climate Change Act 2008

4.2.1. The Climate Change Act 2008 sets a target for the year 2050 for the reduction of targeted GHG emissions and to provide for a system of carbon budgeting (amongst others). The Climate Change Act 2008 (2050 Target Amendment) Order 2019 amends the 2050 target in the Climate Change Act 2008 to net zero, i.e. that the net United Kingdom (UK) carbon account, in terms of carbon dioxide and other targeted GHG, for the year 2050 is at least 100% lower than the relevant baseline year. A series of carbon budgets orders set the carbon budgets for relevant periods.

NPS EN-1

3.2.6	Urgent need for the types of infrastructure covered by the national policy statement (NPS).
3.2.7	The weight to be given to the need.
3.3.20	The role of solar.
4.2.2	Delivery of energy security, net zero, and low carbon sources of energy.
4.2.5	Definition of low carbon infrastructure.
4.10.11	Need to demonstrate high level of resilience to climate change.
5.3.3	Climate change impacts.
5.3.4	Matters for a GHG assessment.

5.3.8	Assess GHG emissions.
5.3.9	Reduce GHG emissions.
5.3.10	Mitigate or offset emissions. Residual emissions.

NPS EN-3

2.4.11	Increased risk of flooding and impact of higher temperatures.

Alternatives

NPS EN-1

4.3.9	Consideration of alternatives.
4.3.15	Reasonable alternatives and the choice.
4.3.17	Alternatives for compliance with policy or legal requirements.
4.3.25	Alternatives not among the main alternatives.

NPS EN-3

2.10.25	Site choice and nearby available grid export capacity.

Electricity Generation and Grid Connection

NPS EN-1

4.11.6	Applicants should provide information as part of their application confirming that there is no obvious reason why a network connection would not be possible.
4.11.12	Network connection arrangements.

NPS EN-3

2.10.22	Capacity of local grid network.
2.10.50	Total capacity of a solar farm.
2.10.55	Generating capacity over time.
2.10.67	Solar panel efficiency and replacement.

Decommissioning

NPS-EN3

2.10.65	Solar panel efficiency and the period of consent.
2.10.66	Time limited consent.
2.10.146	Outline plans for decommissioning.

2.10.147	Setting the time limit.
2.10.148	Removal of inoperative plant.
2.10.149	Upper time limit.
2.10.150	Consideration of the time limit.

Approach to Cumulative Effects Assessment

NPS-EN1

4.1.5	Weighing adverse cumulative impacts against benefits.
4.2.12	Compensation and consideration of residual cumulative impacts.
4.3.3	Assessment of likely significant effects, including cumulative effects.

NPS EN-3

2.10.26	Cumulative impacts of situating a solar farm in proximity to other infrastructure near to a grid connection.

Local Policies

4.2.2. The Lincolnshire County Council (LCC) and North Kesteven District Council (NKDC) Local Impact Reports (LIR) [REP1-088] [REP1-102] refer to the following policies:

- Central Lincolnshire Local Plan (CLLP) Policy S11: Embodied Carbon.
- CLLP Policy S14: Renewable Energy.
- CLLP Policy S16: Wider Energy Infrastructure.
- CLLP Policy S53: Design and Amenity.
- Lincolnshire Minerals and Waste Local Plan Policy DM1: Presumption in favour of sustainable development.

4.3. THE APPLICATION

NEED, INCLUDING CLIMATE CHANGE

4.3.1. The applicant [AS-018] [APP-0135] refers to the NPSs establishing a critical national priority (CNP) for the provision of nationally significant low-carbon infrastructure, which includes large-scale solar farms, because a combination of many or all types of such infrastructure is urgently required for both energy security and net zero by 2050. It also considers that the proposed development would make an important contribution to the government's 'Clean Power by 2030' mission.

4.3.2. The applicant considers that national policy establishes a presumption in favour of granting consent that should be the starting point from which the proposed development should be assessed. The applicant is of the view that the proposed development is required to ensure that the UK remains on

track to meet its legally binding carbon emissions reduction targets, while enhancing national security of supply, and at a cost which, in relation to other electricity generation infrastructure developments, provides value for money for end-use consumers.

4.3.3. The applicant maintains that the proposed development would generate power ahead of other potential technologies (which may have longer construction timeframes or have potentially not yet been proven at scale) which will support decarbonisation only in future years and only if they are brought forwards.

4.3.4. The applicant concludes that the decarbonisation, security of supply and affordability benefits delivered by the proposed development to the national urgent need for low-carbon generation should be accorded very significant weight in the planning balance.

CLIMATE CHANGE ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

4.3.5. The applicant's assessment of matters relating to climate change is contained within Chapter 8 of the Environmental Statement (ES) [APP-048] and accompanying appendix [APP-096]. Cumulative climate effects are considered in Chapter 16 of the ES [APP-056].

4.3.6. The study area for the assessment is the global climate. The proposed development has the potential to affect the climate by the addition and avoidance of GHG emissions in comparison to the baseline and future baseline scenarios.

4.3.7. The scope of the assessment includes the addition of GHG emissions directly from construction, operational (including maintenance) and decommissioning activities undertaken within the order limits, including project fuel consumption (during construction and decommissioning). It also extends to include GHG emissions which will occur outside the order limits, but related to the activities of the proposed development, including those from:

- the extraction, manufacture, and transportation of materials to the construction site (construction and operation (including maintenance)).
- the transportation of workers to the site (construction and operation (including maintenance)).
- off-site transport and disposal of waste materials (construction, operation (including maintenance) and decommissioning).

4.3.8. The assessment considers the GHG emissions savings from the proposed development as a result of displacing fossil-fuel based energy (Combined Cycle Gas Turbine (CCGT)) in the national electricity network.

4.3.9. The assessment has regard to:

- Institute of Environmental Management and Assessment (IEMA) guidance on Assessing GHG Emissions and Evaluating their Significance (2022).
- PAS 2080 - Carbon management in Infrastructure (British Standards Institute, 2023).
- Planning Practice Guidance on Climate Change (Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities, 2019).
- A Corporate Accounting and Reporting Standard (The Greenhouse Gas Protocol, 2004).
- Whole Life Carbon Assessment for the Built Environment (Royal Institution of Chartered Surveyors, 2023).

4.3.10. All assumptions that underpin the assessment, such as fuel usage, travel distances and service life of infrastructure components are set out in paragraphs 8.4.14 to 8.4.28 of the ES [APP-048].

4.3.11. The applicant set out that due to the embedded resilience of solar photovoltaic (PV) panels to high heat and wind speeds; low risk of flooding at the site; and the site's distance from the coast, these factors are not expected to significantly impact the construction, operation (including maintenance) or decommissioning of the proposed development and climate resilience was therefore scoped out of the assessment.

4.3.12. Data required to undertake the lifecycle GHG assessment is provided in Appendix 8.1 'Raw Data and Emission Factors' of the ES [APP-096]. No surveys or site visits were considered necessary by the applicant to inform the assessment.

4.3.13. Embedded mitigation includes ensuring that any vegetation cleared for the proposed development would be compensated by a planting scheme that equals or exceeds the current levels of vegetation and lean design to minimise use of concrete, steel and aggregates.

CONSTRUCTION PHASE

4.3.14. The GHG assessment [APP-048] of construction emissions calculates the life cycle emissions for the building materials and systems, accounting for their embodied emissions, construction, maintenance, repair and replacement emissions.

4.3.15. Mitigation measures to reduce GHG emissions include: requiring all members of the supply chain to provide a carbon reduction plan where feasible, allowing for the optimisation of emissions associated with the supply chain; reducing fuel use; using sustainable fuels; using local sourced materials; managing waste in line with the waste hierarchy; and seeking to reduce construction related vehicle movements. These measures are secured in the Outline Construction Environmental Management Plan (oCEMP) [APP-0140] and Outline Construction Traffic Management Plan (oCTMP) [APP-0141].

4.3.16. The assessment finds that construction related GHG emissions are estimated to be 1,865,557 tonnes of carbon dioxide equivalent (tCO_2e). Of this, the largest emission source is from the manufacture of materials and components comprising of 1,739,263 tCO_2e of the total.

OPERATIONAL PHASE

4.3.17. During operation, the assessment [APP-048] considers that the total operational GHG emissions would be 954,474 tCO_2e, the majority of which would come from the replacement of the Battery Energy Storage System (BESS) over the lifetime of the proposed development.

4.3.18. The assessment notes that the maintenance and replacement of components of the proposed development should be carried out in accordance with the additional mitigation measures set out above for the construction phase. These are detailed and secured in the Outline Operational Environmental Management Plan (oOEMP) [APP-0143].

4.3.19. In terms of impacts on precipitation run-off rates the assessment notes that surface water run-off will be controlled using water management techniques informed by sustainable drainage systems and the site will be planted with native species grassland and wildflower mixes. The assessment finds that there would be no significant risk of the solar PV panels altering precipitation runoff rates and patterns to have detrimental effects on the environment. Consequently, the applicant considers that there would be no significant effects.

DECOMMISSIONING PHASE

4.3.20. This phase includes GHG emissions from decommissioning fuel use, transport of materials to disposal sites and emissions associated with recycling and landfill. It is anticipated that additional mitigation measures specific to the decommissioning phase would broadly emulate those set out for the construction phase. These are detailed and secured in the Outline Decommissioning Environmental Management Plan (oDEMP) [APP-0146].

4.3.21. GHG emissions from the decommissioning phase of the proposed development are estimated to total 184,765 tCO_2e.

OVERALL GHG EMISSIONS AND SAVINGS

4.3.22. The predicted lifecycle GHG emissions of the proposed development from construction, operation (including maintenance) and decommissioning are 3,004,796 tCO_2e. The GHG emissions from the proposed development up until 2037 range between 0.007% and 0.091% of the UK carbon budget.

4.3.23. The ES [APP-048] finds that the operation of the proposed development would displace 12.7 million tCO_2e that may have otherwise been emitted from gas generated electricity. Over the proposed 40-year lifetime, the assessment considers GHG savings of over 9.6 million tCO_2e would occur as a result of the proposed development when compared to CCGT generated electricity. The assessment notes that like the UK grid carbon

intensities published by the UK Government, this comparison does not account for the embodied carbon in the CCGT and is therefore considered by the applicant to be a conservative estimate.

4.3.24. The assessment considers this to have a significant beneficial effect on climate change.

CUMULATIVE CLIMATE CHANGE EFFECTS

4.3.25. The assessment [APP-056] sets out that GHG emissions are inherently cumulative, as all emissions have the same impact on the same receptor (i.e. the global climate) and the impact of these emissions is climate change or global warming. The assessment considers that as the receptor is not geographically constrained it is not appropriate to undertake a conventional inter-project cumulative effects assessment. The applicant notes that the consideration of cumulative GHG emissions is inherent within the preliminary GHG assessment, as the GHG emissions of the proposed development are assessed within the context of the UK carbon budget.

4.3.26. The assessment does make an estimate of the GHG emissions that would arise as a result of the life cycle of the proposed National Grid Navenby Substation (NGNS), for context, which is anticipated to be 6,918 tCO_2e based on available information. However, the assessment sets out that the NGNS has the potential to support multiple future renewable energy developments in the region, additional to the proposed development. As such, no judgement has been made as to the percentage of these emissions which should be apportioned to the proposed development.

ALTERNATIVES

4.3.27. The reasonable alternatives considered by the applicant are outlined in Chapter 4 of the ES [APP-044] and the supporting figures [APP-061]. The applicant sets out its approach to the consideration of alternative site locations, technologies and site layouts in the assessment as summarised below.

SITE SELECTION

4.3.28. The applicant's approach to site selection is set out in detail in paragraphs 4.2.11 to 4.2.22 of ES Chapter 4 [APP-044]. The applicant set a minimum size requirement of 1000 hectares (ha) for potential sites, with a preference for larger sites, to be able to achieve an output in the range of at least 250 to 500 megawatts (MW). The applicant also sought land which had a maximum of two landowners, with a preference for just one landowner. The reasons given by the applicant for this approach included that it would remove complexity, allow more flexibility in micro-siting and maximise efficiencies of land use across the site.

4.3.29. Of the sites that met the above requirements the applicant evaluated the sites using the following high-level criteria:

- Proximity of overhead lines (OHL) to site (no further than 3 kilometres (km) from OHL).
- Capacity within the OHL.
- Accessibility from major roads.
- Available acreage within landholding.
- Agricultural land classification (ALC) grade.
- Flood zones.
- Avoidance of statutory cultural heritage assets.
- Capability of solar PV development to be visually broken up/ hidden in landscape.
- Regularity of field parcels.
- Landowner appetite to be part of proposal and ease of reaching voluntary agreement.

4.3.30. The applicant's search generated five landholdings across Lincolnshire, Rutland and Cambridgeshire, including the proposed development site. The applicant states that the proposed development site performed well against key considerations including that it represents the largest landholding of all sites considered with a highly regular field pattern, favourable topography, good accessibility and limited environmental constraints.

TECHNOLOGIES

4.3.31. The applicant explains in ES Chapter 4 [APP-044] that alternative types of renewable energy generation technologies, such as wind and hydrogen, were not considered. The applicant does not consider the proposed development site would be well suited for onshore wind energy generation due to the low, flat topography of the local area, which would likely give rise to greater landscape and visual effects in comparison to solar development. The applicant states that its project objectives are to export directly to the National Grid, rather than to generate electricity to deliver something different, for example, hydrogen. The applicant also does not consider hydrogen suitable due to the construction and commercial viability for this type of energy generation in comparison to solar energy generation.

4.3.32. The applicant explains that whilst the parameters of the draft Development Consent Order (dDCO) [APP-012] would maintain a degree of flexibility under the Rochdale Envelope to allow for the latest solar technology to be utilised at the time of construction, it discounts the alternative solar technologies of tracker panels and east-west fixed panels in favour of south facing fixed panels. Tracker panels were discounted by the applicant based on the increased landscape and visual impacts due to the increased height in comparison to fixed panels. East-west fixed panels were discounted by the applicant as they reduce the potential for biodiversity net gain and enhancements due to the reduced space between the panels.

SITE LAYOUT

4.3.33. The applicant has set out in detail the iterative process of developing the proposed design and layout in Section 4.6 of ES Chapter 4 [APP-044]. The design process the applicant undertook had 3 stages:

- Design stage 1 - The initial stage of the design following the identification of the proposed development site. The stage 1 plans were published as part of a non-statutory consultation [APP-019] and in the Environmental Impact Assessment (EIA) Scoping Report [APP-075].
- Design stage 2 - Updated plans and proposals following the non-statutory consultation to take account of the consultation feedback and the emerging results from ongoing environmental surveys. The stage 2 plans were published as part of a statutory consultation [APP-019] and informed the assessment detailed within the Preliminary Environmental Information Report (PEIR) [APP-030].
- Design stage 3 - Updated plans and proposals following the statutory consultation to take account of the consultation feedback, ongoing engagement and the findings of further environmental assessments. The stage 3 plans form the basis of the applicant's application [APP-060].

4.3.34. Through the above design process, the applicant considered alternatives to the site layout and made the following key changes:

- Some fields were discounted for development to reduce the impacts on landscape character, visual settings, presence of high-quality grassland suitable for reptiles, nearby residential areas, conservation areas, and heritage assets.
- The option of a distributed BESS across the proposed development site was discounted due to limited suitable locations to site the BESS in Springwell East and Central because of landscape and visual impacts. A consolidated BESS in the north of Springwell West was progressed as the preferred option.
- The options of locating the Springwell Substation in the south or centre of Springwell West were discounted due to environmental impacts. The location of the substation in the north of Springwell West was progressed as the preferred option.
- Alternative grid connection corridors were considered and discounted to minimise environmental impacts.
- A proposed secondary heavy goods vehicle construction route via the B1202 was discounted due to safety concerns at the A15 junction.
- Temporary construction compounds were made smaller and moved to areas within or close to solar development areas to minimise ground disturbance.
- Additional green infrastructure was proposed in the form of additional public rights of way, a community growing area and further landscape and ecological enhancements.

ELECTRICITY GENERATION AND GRID CONNECTION

4.3.35. The proposed development would have a generating capacity of over 50MW [REP1-058]. The applicant [APP-096] anticipates that 965,000 Megawatt hours (MWh) of energy generation would be produced during the first year of operation with a year-on-year degradation factor of 0.4%. The final year of energy generation (year 40) is predicted to be approximately 825,356MWh. This gives an estimated total energy generation of 35,736,262MWh over the 40-year lifetime of the proposed development.

4.3.36. The applicant has a grid connection agreement with National Grid Electricity Transmission (NGET) to export power to the National Electricity Transmission System (NETS) [REP1-058]. The proposed development would be connected to the NETS via a point of connection at the proposed NGNS.

4.3.37. Solar PV panel arrays would generate electricity which would be collected and directed to the on-site substation, which would be located close to the proposed NGNS. A BESS located adjacent to the on-site substation would store the electricity generated, for it to then be released to the national electricity grid when appropriate.

DECOMMISSIONING

4.3.38. Following the operational (including maintenance) phase, the proposed development will require decommissioning. This would involve the removal of all of the solar PV infrastructure, including the ground mounted solar PV generating stations, collector compounds, substation, BESS and ancillary infrastructure, including any onsite compounds.

4.3.39. Requirement 19 of the dDCO [APP-012] provides that the decommissioning stage would commence no later than 40 years following the date of final commissioning of the first phase of the generating station.

4.3.40. The applicant [APP-043] has set out that the decommissioning stage would be expected to take around 24 months and funding would be sourced either on balance sheet or by leveraging debt from reputable lenders [REP4-006].

APPROACH TO CUMULATIVE EFFECTS ASSESSMENT

4.3.41. The applicant's approach to the assessment of cumulative effects is set out in Chapter 16 of the ES [APP-056]. This considers both intra-project and inter-project effects.

4.3.42. A long list of sites is identified in accordance with the Planning Inspectorate's Guidance on Cumulative Effects Assessment. The overall combined 'search area' for the long list of relevant other existing development and/or approved developments is based on a study area of 10km. However, consideration has been afforded to the adoption of a wider more regional level study area for cumulative assessment in relation to best and most versatile (BMV) agricultural land and transport.

4.3.43. Following the formation of the long list, the eligible other existing developments and/ or approved developments identified then go through further assessment to establish a short list of other existing development and/ or approved developments which, in combination with the proposed development, have the potential to result in significant inter-project cumulative effects.

4.3.44. The ES sets out that the following principles have been considered in assessing the significance of inter-project cumulative effects, in accordance with the Planning Inspectorate's Advice on Cumulative Effects Assessment

and in consideration of any mitigation measures required to avoid, prevent, reduce or, if possible, offset any identified significant adverse inter-project cumulative effects:

- The duration of effect (temporary or permanent).
- The extent of effect (the geographical area).
- The type of effect (whether additive or synergistic).
- The frequency of the effect.
- The value and resilience of the receptor affected.
- The likely success of mitigation.

4.3.45. As set out above, the cumulative effects themselves are considered in each of the topic specific chapters in this report.

4.4. ISSUES CONSIDERED DURING THE EXAMINATION

NEED, INCLUDING CLIMATE CHANGE

NEED

4.4.1. Whilst the need for renewable energy in general was accepted by most parties, a number of interested parties (IPs), such as [RR-369] are of the view that net zero could be met in other ways.

4.4.2. The applicant responded [REP1-070] by setting out that solar development at scale is needed to help meet the urgent need for homegrown, secure, renewable energy required by government policy to address climate change and energy security. It also stated that paragraph 3.3.20 of NPS EN-1 explains a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar and the government's Clean Power 2030 Action Plan states that to deliver a path to clean power, the government has high ambition. That means 43-50 GW of offshore wind, 27-29 GW of onshore wind, and 45-47 GW of solar power, significantly reducing fossil-fuel dependency.

CLIMATE CHANGE

4.4.3. LCC and NKDC (the local authorities) [REP1-088] [REP1-102] accepted that overall, there would be a positive impact in terms of GHG emissions and to the national net zero targets and were generally content with the assessment methodology. However, several concerns were raised:

- CCGT plant is not an appropriate baseline for assessment comparisons referring to the Secretary of State's (SoS) view in the Gate Burton Energy Park project and recommended that a comparison against other technologies is taken into account as well [REP1-103].
- Solar PV panels at the end of their lives may need to travel greater distances to recycling/ disposal facilities than assumed in the ES affecting the GHG emissions assessment [REP1-088].
- Monitoring and reporting requirements should be imposed in relation to emissions data and renewable energy generation figures [REP1-102] [REP4-053].

4.4.4. Several IPs, including [RR-031] [RR-322] shared the view that CCGT was not an appropriate comparison. Additional concerns raised by IPs include:

- The carbon footprint concerns about the sourcing and manufacturing of solar PV panels and components from China [too many to list].
- The projected amount of power generated from the proposed development will be lower than claimed due to the weather and low hours of sunshine in the Lincolnshire area [RR-319].
- Underestimation of the GHG emissions for component replacement (such as solar PV panels, BESS batteries and transformers throughout the life of the project [REP2-031].
- The applicant's own figures at Table 2 of Appendix 2 [REP2-023] show solar is the most polluting of the renewables [REP4-066].
- The UK Government's 2030 target (Clean Power Action Plan) is to reduce the carbon intensity of generation from the grid to well below 50 gCO_2e/kWh by 2030. The lifetime intensity of the proposed development will be 84.1 gCO_2e/kWh. This is 34.1 gCO_2e/kWh above the Government's 2030 target requiring other much cleaner renewables such as wind and nuclear to redress the balance [REP4-067].

4.4.5. The applicant in response [REP1-070] [REP2-023] [EV6-004] [EV6-005] [EV6-008] [EV6-009] [REP3-075] made the following points:

Local Authorities

- It produced a technical note at Appendix 2 of [REP2-023] that included further justification for comparison with CCGT and also undertook an assessment of alternative comparisons. Confirmed that based on a comparison with a UK Grid electricity emissions factor of 252.95 gCO_2e/kWh, the total carbon savings of the proposed development would be 6,034,691 tCO_2e when considering the entire project lifecycle.
- Is of the view that the waste management industry will meet future demand for recycling or disposing solar PV panels and other related infrastructure when there is a demand. Noted that the SoS shared this view in the West Burton Solar Project Order 2025 and the East Yorkshire Solar Farm Order 2025. Therefore, the assumed 100km travel distances in the GHG assessment are appropriate.
- It has taken the end-of-life emissions from environmental product declarations (EPDs) which is an acceptable approach.
- Set out it is not standard industry practice to monitor emissions from schemes such as this. For example, the most commonly adopted international standards from the International Finance Corporation (IFC) and Equator Principles state that monitoring and reporting is only required if scope 1 and 2 GHG emissions (direct emissions such as fuel combustion and indirect emissions from purchased energy such as electricity) exceed 25,000 tCO_2e per year, which the proposed development does not.

IPs

- The applicant noted that the location of the proposed development was chosen partly because the land's characteristics in Lincolnshire are optimal for generating renewable energy by solar PV panels. The land at this location has suitably high levels of irradiation to support the commercial viability of such development and large areas of flat land. As a whole, irradiance in Lincolnshire is sufficiently high to support solar development.
- The full lifecycle assessment presented in the ES [APP-048] takes into account the emissions associated with the manufacture and transport of materials and components from source countries (including China as a part of Asia). The GHG savings of the proposed development outweigh the emissions associated with its construction, operation (including maintenance and replacement), and decommissioning, resulting in net GHG savings of over 9.6 million tCO_2e.
- Set out the applicant is an experienced developer and is confident that the solar PV panels it would procure would last the 40 years due to new technology and confirmed that was what informed the assessment and was the reason for the Article 5(3) restriction in the dDCO.
- NPS EN-1 paragraphs 3.2.6 – 3.2.8 make clear that there is a demonstrated urgent need for a range of renewable energy technologies, including solar.

4.4.6. Given the concerns about the applicant's assumed 40-year life of the solar PV panels, the ExA asked the parties at Issue Specific Hearing (ISH) 3 [EV6-004] [EV6-005] whether a requirement should be added to the dDCO that restricted the replacement of solar PV panels to 5%, as assumed in the ES. The ExA also included this within its schedule of proposed changes to the dDCO [PD-009].

4.4.7. The local authorities were supportive of such a restriction [REP4-052] [REP4-053]. NKDC noted that the definition of 'maintain' within the dDCO, whilst not allowing the wholesale replacement of solar panels, could allow for up to 99% of all solar panels to be replaced [REP3-080].

4.4.8. LCC noted [REP3-079] that whilst Article 5 and Schedule 16 of the dDCO would provide some restriction, relying on it alone would create enforceability issues. In particular, in the absence of any requirement for the applicant to keep the planning authority informed of the number of panels being replaced, it would be difficult to see how the planning authority could monitor whether the extent of replacement is likely to have materially new or different significant effects than those assessed. Further, it noted that since replacement is likely to take place piecemeal, it may be that, although no individual set of replacement works will have a new or different significant effect, cumulatively the effects could be materially different to those assessed.

4.4.9. The applicant, in response [EV6-004] [EV6-005] [REP3-075] [REP4-050] strongly opposed such a requirement and set out:

- It would be inappropriate to include such a requirement, as it had assessed the 40-year scheme on the likely worst-case scenario based on the best available knowledge, which is for no replacement of solar PV panels during the lifetime of the scheme apart from potential repair work.
- Noting the benefits the project provides, it would be against policy for a requirement to restrict the applicant on how much it can repair the project as it is important that it continues to be fully operable and deliver the much needed renewable energy throughout its lifetime.
- The definition of 'maintain' in the dDCO [REP5-004] does not allow the applicant to replace the whole of the authorised development.
- Article 5(3) of the dDCO sets out that "This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement." Therefore, the applicant must comply with that as anything over and above that would be in breach of the order.
- The updated oOEMP [REP2-018] introduces an additional control by inserting Section 2.10 "Replacement Schedule". This section commits the applicant 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.
- Schedule 16 of the dDCO [REP5-004] provides further 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 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 is 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.
- Having such a requirement would not meet the reasonableness test in these circumstances.

4.4.10. At the end of the examination, matters relating to GHG emissions from waste management, the need to monitor emissions and the need for a requirement restricting replacement solar PV panels to 5% were outstanding between the applicant and the local authorities.

EXA'S CONCLUSION ON NEED, INCLUDING CLIMATE CHANGE

4.4.11. The ExA notes the points made by IPs that there are other renewable energy technologies that have lower lifetime gCO_2e/kWh values. However, the ExA acknowledges the need established by paragraphs 3.2.6, 3.2.7 and 4.2.2 of

NPS EN-1 for the proposed development and considers that it would contribute to meeting energy security and net zero ambitions.

4.4.12. No substantive evidence has been provided to demonstrate that irradiance levels in Lincolnshire are not suitable for solar technology or that the applicant's assumed energy generation figures have been overestimated in this regard.

4.4.13. The ExA notes the SoS's view in the Gate Burton Solar Farm project that CCGT is not an appropriate baseline for assessment comparisons. However, the ExA is also aware that CCGT has been used for comparison purposes in other more recent solar farm projects such as the East Yorkshire Solar Farm. In any event, the applicant undertook further work which demonstrated that against the current grid mix there would still be significant savings of 6,034,691 tCO_2e. This includes taking into account emissions from manufacturing equipment in Asia.

4.4.14. The ExA accepts that there are currently limited recycling and other waste management facilities for solar PV panels. However, the ExA notes that whilst there isn't currently a great demand for such facilities, this is very likely to change once solar farms start to be decommissioned in the future. The ExA agrees with the applicant's view that the waste management industry will likely respond to the demand when it is needed. Further, the ExA is mindful that Lincolnshire and surrounding waste planning authorities will also play a role in planning for such waste streams in the future through their waste local plans. Given this, we consider that the applicant's assumption that waste will be managed within 100km of the application site to be reasonable.

4.4.15. In terms of the suggested underestimation of replacement parts and the applicant's assumption in the ES that only 5% of solar PV panels would need to be replaced, the ExA has had regard to the applicant's responses set out above. The ExA accepts that Article 5(3) and Schedule 16 of the rDCO would ensure that the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the ES would not be undertaken and considers that this gives the relevant planning authority sufficient control, including in relation to any cumulative effects.

4.4.16. In terms of the concern of LCC that the replacement of components parts would be difficult to monitor to ensure unassessed effects do not occur, the ExA notes the alteration to Section 2.10 of the oOEMP. This commits the applicant to providing an annual planning maintenance schedule to the relevant planning authority. The ExA consider that this would allow the relevant planning authority to suitably monitor replacement and repair activities for all components.

4.4.17. The ExA acknowledges the concerns of NKDC that the definition of 'maintain' in the dDCO could allow a significant proportion of the total solar PV panels to be replaced. However, given the controls imposed by Article

5(3) and Schedule 16 of the rDCO discussed above, the ExA is content this would not be possible.

4.4.18. The applicant will have no doubt looked carefully at the likely future lifespan and the associated warranties available for all infrastructure, including solar PV panels, batteries and transformers. Given recent and likely future improvements in technology, the ExA is content that the applicant has made reasonable assumptions in terms of the service life of components as set out in Table 8.5 of the ES [APP-048]. Further and as discussed above, Article 5(3) and Schedule 16 of the dDCO would ensure that materially new or materially different effects from those assessed in the ES would not occur.

4.4.19. Turning to the monitoring and reporting of GHG emissions from the proposed development, the ExA agrees with the applicant that there is no policy requirement to do so and NKDC were unable to provide any other examples of solar farm projects where this had been secured. Consequently, the ExA is of the view that the imposition of such a requirement would not be reasonable.

4.4.20. The ExA concludes that the applicant has appropriately assessed the effects of the proposed development on climate change in accordance with Section 5.3 of NPS EN-1. Further, there would be clear benefits to climate change as a result of the proposed development, and this carries positive weight in its favour.

ALTERNATIVES

SITE SELECTION CRITERIA

4.4.21. At ISH1 [EV4-002] [EV4-003] the applicant was asked to explain its approach to considering alternative sizes and scales of the proposed development. The applicant explained that the size of the proposed development was designed to maximise use of the available capacity of the OHL between West Burton and Bicker Fen in response to the need for renewable power generation.

4.4.22. The applicant explained in its post hearing submissions [REP1-073] that it did not consider smaller sites on the basis that they did not meet the objectives of the proposed development. The applicant cited paragraph 4.3.23 of NPS EN-1 which states that the SoS should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity.

4.4.23. The ExA questioned the applicant [EV4-002] [EV4-003] on whether its site selection criteria of a maximum of two landowners indirectly discounted potential sites that could have less adverse environmental effects. In particular, the ExA asked if the applicant looked at sites with more landowners to see if there were sites using less BMV agricultural land or more previously developed land.

4.4.24. The applicant explained that much of the land in the search area was Grade 2 or 3 BMV land (similar to the application site). The applicant found that

there was a larger amount of Grade 1 BMV agricultural land further east of the application site, and less of it closer to the overhead line. Therefore, the applicant stated its view that there were not sites with more landowners that would have decreased the amount of BMV agricultural land. Refer to Chapter 8 of this report for further discussion regarding the impact of the proposed development on BMV agricultural land.

4.4.25. Many IPs [too many to list] commented that solar development should utilise rooftops and brownfield sites instead of farmland. In sections 7.2 and 7.3 of its Statement of Need [APP-0135], the applicant explains its position that there are insufficient rooftop and/ or brownfield resources to deliver the required capacity of solar in the UK at either the scale or pace required or at an affordable cost, to meet the government's target of up to 70GW of operational solar by 2035 (paragraph 2.10.10 of NPS EN-3). The applicant states that whilst a decentralised generation approach (such as installing solar on rooftops or brownfield sites) has a role to play in decarbonisation, it must be considered as additional to, rather than instead of, the need for large-scale solar.

4.4.26. The applicant also pointed out in response to relevant representations [REP1-071] that paragraph 3.3.12 of NPS EN-1 states that decentralised and community energy systems, which by definition include rooftop solar installations, could lead to some reduction in demand on the main transmission system, but "the government does not believe they will replace the need for new large-scale electricity infrastructure to meet our energy objectives."

4.4.27. In response to ExQ1 Q1.2.1 [PD-007], the applicant confirmed [REP1-071] that there were no brownfield sites within the 3km search area of either Cottam to Eaton Socon or West Burton to Bicker Fen OHLs which meet its minimum site size criteria. The applicant found that the largest brownfield sites within any of the local planning authority areas that either OHL passes through are only 182 hectares (ha) and 33ha.

4.4.28. The signed statement of common ground (SoCG) between the applicant and NKDC [REP5-022] stated that the parties agreed that the information provided on alternatives in relation to site selection was adequate and appropriately demonstrated compliance with NPS EN-1 and EN-3.

SOLAR TECHNOLOGY

4.4.29. The applicant was asked at ExQ1.2.3 [PD-007] whether overplanting was a consideration in relation to the consideration of alternative site layouts and technologies. The applicant stated [REP1-071] that the order limits would not allow for significant overplanting, however the applicant stated that it would seek to optimise use of the grid connection capacity at the detailed design stage, including any overplanting as may be achievable.

4.4.30. The applicant was asked at ExQ1.2.2 [PD-007] if either tracker panels or east-west fixed panels would require less land take than the proposed technology through increased efficiency or higher density of installation and

whether this was factored into the decision to discount these technologies in favour of fixed south facing panels.

4.4.31. In response [REP1-071], the applicant expanded on its reasons for discounting tracker panels to explain that they require suitable field shapes and increased spacing to avoid shading and topography. With regards to east-west fixed panels, the applicant explained that although panels may be placed more densely than south facing panels, this can come with the risk of adversely impacting local drainage. Furthermore, the applicant stated that east-west panels can experience increased shading and necessitate a less optimal layout with regard to orientation, maintenance and access.

4.4.32. The applicant confirmed [REP1-071] that fixed south facing panels would be most suitable for the proposed development site and would optimise use of the grid connection capacity from the land available.

EXA'S CONCLUSION ON CONSIDERATION OF ALTERNATIVES

4.4.33. The ExA is content that the applicant has provided sufficient information in the ES [APP-044] in accordance with paragraph 4.3.15 of NPS EN-1 regarding the reasonable alternatives it has considered including its reasons for the choices made, taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility.

4.4.34. The ExA acknowledge the large number of representations that panels should be on rooftops or brownfield land rather than farmland. However, it has not been demonstrated by any party proposing this as an alternative, in accordance with paragraph 4.3.29 of NPS EN-1, that there is sufficient evidence that rooftop or brownfield solar is a suitable alternative that can meet the objectives of the proposed development. Furthermore, the ExA considers the applicant's position reasonable that rooftop and brownfield solar should be considered as additional to, rather than instead of, the need for large-scale solar.

4.4.35. The ExA is content that the consideration of alternatives has been carried out in a proportionate manner in accordance with paragraph 4.3.22 of NPS EN-1 including the consideration of alternative site locations, technologies and site layouts.

4.4.36. With regards to the choice of site location near to available grid export capacity, the ExA considers that the applicant's approach maximises the existing grid infrastructure and minimises disruption in accordance with paragraph 2.10.25 of NPS EN-3.

ELECTRICITY GENERATION AND GRID CONNECTION

4.4.37. From the outset of the examination the local authorities [RR-233] [RR-305] raised concerns that the applicant's proposed grid connection at Navenby (the NGNS) does not benefit from planning permission. Through written submissions [REP1-088] [REP1-090] [REP1-102] [REP1-104] [REP2-025] [REP2-026] [REP3-079] [REP3-080] and discussions at ISH1 [EV4-002]

[EV4-003] and ISH4 [EV7-002] [EV7-003], the key points raised by the local authorities were:

- NKDC will determine the proposed NGNS on its merits. There is no guarantee that planning permission will be granted and there does not appear to be any fall back. In a similar manner new overhead powerlines are also required and need consent.
- There could be slippage from the applicant's timescales. If planning permission were to be refused there may be a need for an appeal and/ or the potential for legal challenge if permission is granted.
- Concern about the validity of the ES should there be a slippage in delivery timescales for the proposed development, such as ecological assessments becoming out-of-date.
- As the proposed NGNS does not form part of the proposed development and in line with NPS EN-1 (paragraphs 4.11.7 and 4.11.8) the applicant should include information to explain the reasons for the separate application, confirming that there are no obvious reasons for why the proposed NGNS is likely to be refused.
- Given there is limited information about the proposed NGNS, it is not possible to quantify the environmental impacts its development could bring and it is too early to determine whether there could be any reasons for refusal.
- The SoS will need to be satisfied that a sufficient level of information is available for the NGNS and that a robust assessment of the inter-project effects has been undertaken in determining this application in order to comply with the EIA regulations, and in accordance with paragraph 4.11.9 of EN-1.
- Any delays in grid connection would reduce the potential benefits of the proposed development providing renewable energy before the government's target date of 2030 (the Clean Power 2030 Action Plan sets out a pathway to a clean power system) and may impact on the planning balance.
- Potential risk for negative environmental impacts to occur from the proposed development commencing without the benefit of generation being secured.
- The dDCO should make provision through a requirement to restrict the commencement of the proposed development until a particular point has been reached with the proposed NGNS.
- LCC referred to requirement 33 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 which imposes a restriction on commencement until an environmental permit is in place. Whilst this requirement relates to an environmental permit, it has similarities in that it was the case that negative environmental effects could occur if the control was not in place.
- NKDC referred to the Viking CCS Carbon Dioxide Pipeline Order 2025 as another example with specific reference to Requirement 20.
- Whilst the revised grid connection offer dates [REP1-058] better align with the anticipated completion date for the NGNS of late 2029, its other concerns remain.

4.4.38. A large number of IPs, such as [RR-031] also shared the concerns of the local authorities, with some of the view that the proposed development should not be determined until there is certainty about the proposed NGNS, for example [REP1-167].

4.4.39. The applicant's response [EV4-002] [EV4-003] [REP1-070] [REP1-073] [REP2-023] [EV7-002] [EV7-003] [REP3-075] [REP4-049] to these points can be summarised as:

- There has been an amendment to the connection dates [REP1-058], so that they are now October 2029 and October 2030. Whilst those dates have changed slightly, the assumptions in the ES were based on a worst-case 48 month construction period that has not changed. The ES can only be based on worst-case assumptions.
- National Grid's response to the ExA's first written question ExQ1 1.1.1 [REP1-092] confirms an anticipated completion date of Q4 2029, aligning with the applicant's stage one connection date.
- Pursuant to Schedule 16 of the dDCO, when the applicant is discharging requirements, it will need to confirm that the subject matter being approved would not be likely to give rise to any materially new or different environmental effects compared to those in the ES. In this way, the applicant is bound by the effects contained in the ES.
- There is no policy requirement that the NGNS needs to be consented with or ahead of the proposed development. Paragraph 4.11.8 of NPS EN-1 anticipates and allows for the circumstances that have arisen with the relationship between the proposed development and the proposed NGNS.
- The applicant is in regular engagement with National Grid, and the applicant understands National Grid's preference is to consent its own infrastructure, so that it has control over its own consenting process and because the NGNS will serve more projects than just the proposed development.
- It has addressed the requirements of paragraphs 4.11.8 and 4.11.9 of NPS EN-1, including showing that there is no obvious reason why the application for the NGNS should be refused, having regard to relevant planning policy. This included providing further evidence as a hearing action [REP1-073] at the ExA's request.
- The applicant has provided information about the NGNS and has included it within its cumulative assessment. It also updated the cumulative assessment [REP4-013] to take into account the EIA Scoping opinion for the proposed NGNS.
- National Grid take a responsible approach to siting, design and mitigation of new infrastructure, following the Horlock Rules.
- The applicant acknowledges that there is not a fallback, but emphasised that National Grid is obliged to provide a grid connection under its obligations pursuant to the grid connection agreement that is in place.
- Set out that the commercial reality is such that it is not realistic or even likely that there would be a situation in which the applicant built out the solar farm without any grid connection. Therefore, the situation raised by the local authorities is not a realistic one. The applicant added that having

complied with the requirements in NPS EN-1 and provided the confirmation necessary in relation to the NGNS, there was no policy support nor justification for a requirement to restrict the commencement of the proposed development. This would result in an overly unreasonable burden on the applicant.

- Such a restriction would not accord with the urgent need for the delivery of renewable infrastructure to meet the legally binding 2050 Net Zero target.
- The applicant referred to the Drax Bioenergy with Carbon Capture and Storage (CCS) Extension Order 2024 in which a similar requirement was sought, however the SoS found no reason to impose it.
- Referred to Sunnica Energy Farm Order 2024, where an extension to the existing substation was required for the generating station to connect into the electricity transmission network which had not yet been consented at the point the order was made. The applicant noted that in that case, the SoS did not impose a requirement linking the solar PV generating station with the consenting of the substation extension.
- The Viking CCS Carbon Dioxide Pipeline Order 2025 scenario is not analogous to the proposed development, 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.
- In terms of weight to be given to the contribution of the proposed development to the urgent need for renewable energy generation, NPS EN-1 paragraphs 3.2.6-8 are clear that the need should be given substantial weight whether or not delivery is before 2030.

4.4.40. As part of its schedule of proposed changes to the dDCO [PD-009], the ExA included an additional requirement that would restrict the commencement of development until planning permission had been granted for the proposed NGNS. The ExA explained that this was due to concerns 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 of limited commercial cost, but which could result in adverse environmental effects. The local authorities [REP4-052] [REP4-053] were supportive of this addition.

4.4.41. The applicant [REP4-050] strongly opposed the requirement and reiterated the points raised above. Although, on a without prejudice basis, it provided alternative wording. It set out that given the proposed development is a nationally significant infrastructure project (NSIP) for which there is a demonstrated urgent need and its delivery is a CNP, it should be able to undertake minor preliminary works and other works that either would have no adverse environmental effects (in line with the applicant's ES), or which can be reversed and would not have significant adverse effects, meaning any effect would only be temporary.

4.4.42. The applicant's alternative wording includes a mechanism, whereby, if the NGNS was not granted planning permission within the time available to implement the proposed development, the applicant would need to ensure

that what happens to the works it has undertaken is agreed with the relevant planning authority. The applicant went on to set out that this could mean the works remain in place (due to not having adverse environmental effects) or alternatively because they are works not requiring planning permissions in the first place, or pursuant to permitted development rights or a retrospective planning permission. The mechanism also provides for agreement where works need to be removed and the land reinstated, for example an earth bund.

4.4.43. The local authorities did not comment on the applicant's alternative wording at D5. As set out in the final SoCG [REP5-021] [REP5-022] there was still disagreement between the local authorities and the applicant at the end of the examination in relation to grid connection matters.

EXA'S CONCLUSION ON ENERGY GENERATION AND GRID CONNECTION

4.4.44. NPS EN-1 (paragraph 4.11.8) deals with the circumstance where new generating stations and related infrastructure are not contained in the same application. Where this is the case, NPS EN-1 is clear that the applicant should include information on the other elements and explain the reasons for the separate application confirming that there are no obvious reasons for why other elements are likely to be refused. Further, footnote 160 to paragraph 4.11.8 sets out that it is acknowledged that different levels of information may be available at different times and as such applicants should take a proportionate approach to what information should be included.

4.4.45. The ExA accepts the applicant's point that National Grid's preference is to consent its own infrastructure, so that it has control over its own consenting process, particularly given the proposed NGNS could serve multiple projects.

4.4.46. The applicant has considered the proposed NGNS in the cumulative assessment [REP4-013] with all the information that has been available and provided evidence why they do not believe it will be refused [REP1-073] in accordance with paragraph 4.11.8 of NPS EN-1. The ExA consider the applicant has undertaken a suitably proportionate approach in terms of the information provided.

4.4.47. The ExA acknowledges that there is inevitably uncertainty given the current stage of progress on the proposed NGNS planning application. It is not possible for the ExA to predict with any certainty whether the NGNS will be granted planning permission. However, the applicant has not identified any issues that would result in refusal of the proposed NGNS or the required overhead powerlines. Further, the ExA considers that no substantive evidence has been put forward by the local authorities or IPs that demonstrate that there is an obvious reason why planning permission would be refused for either the proposed NGNS or overhead powerlines.

4.4.48. In terms of potential delays to the delivery of the proposed NGNS leading to delays in commencing the proposed development, the ExA accepts that this is also a possibility. However, the ExA considers that the applicant can only

make informed assumptions based on current evidence. The ExA is of the view that the assumptions about construction commencement and timings in the ES are reasonable. Given that such projects often have commencement periods of up to five years without the need for updates to the ES and delays can often occur, the ExA does not consider that delays in this case would affect the validity of the ES.

4.4.49. The ExA shares the concerns of the local authorities that due to the uncertainty surrounding the delivery of the proposed NGNS that the commencement of construction of the proposed development could lead to adverse effects without the delivery of the benefits.

4.4.50. The ExA accepts that the commercial reality is that the applicant would not seek to fully construct the proposed development without the proposed NGNS gaining planning permission. However, as set out in the ExA's proposed changes to the dDCO [PD-009], it would be feasible for the applicant to undertake site preparation works prior to planning permission being granted for the proposed NGNS that would be of limited commercial cost, but which could result in adverse environmental effects.

4.4.51. Whilst noting the urgent need for low carbon energy infrastructure to achieve energy objectives, given the specific circumstances and uncertainty in this case, the ExA is of the view that a restriction on the commencement of construction is necessary and meets the tests for requirements (necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects) in paragraph 4.1.16 of NPS EN-1. The ExA has considered all of the other projects referred to above by the applicant and the local authorities. However, each of these have materially different circumstances than those that are in place in this case and do not alter the ExA's view.

4.4.52. The ExA has considered the applicant's alternative wording to the ExA's proposed requirement [REP4-050]. Whilst this would restrict site clearance works (including vegetation removal, demolition of existing structures or buildings) and works to facilitate access to Work Nos. 1 to 7 and 9, it still would allow a large amount of other works, including:

- Above ground site preparation for temporary facilities for the use of contractors.
- Remedial work in respect of any contamination or other adverse ground conditions.
- Diversion of existing services and the laying of temporary services.
- The provision of temporary means of enclosure and site security for construction.
- Work Nos. 9(a) landscape and biodiversity mitigation and enhancement areas, 9(b) habitat creating and management, 9(e) earth bund and 9(f) screening.
- Parts (b), (c), (e), (h), (k) and (m) of the list of further associated development listed at the end of Schedule 1.

4.4.53. The applicant's wording would also allow additional works comprised in the authorised development if agreed by the relevant planning authority, which could lead to further works being undertaken.

4.4.54. The ExA is not satisfied that these works would not result in adverse effects or could be suitably reversed if planning permission is not granted for the proposed NGNS within 5 years (as proposed in the applicant's wording). Further, such works could feasibly lead to unnecessary disturbance and impacts on local communities over several years. Consequently, the ExA has recommended the following requirement in its rDCO:

'23. 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'.

DECOMMISSIONING

4.4.55. At ISH3 [EV6-008] [EV6-009] the ExA asked the local authorities whether they considered decommissioning of the proposed development was suitably secured in the dDCO and whether they were of the view that a funding bond was necessary, a suggestion made by several IPs, for example [REP2-027] [AS-025].

4.4.56. NKDC [EV6-008] [EV6-009] [REP3-080] set out that it was generally content with the dDCO [REP5-004] as the mechanism to secure decommissioning. However, NKDC were of the view that funding for decommissioning was not suitably addressed and noted that the submitted Funding Statement [APP-016] did not include evidence for funding of decommissioning. It considered that the scheme does not provide sufficient security that decommissioning could be funded by the applicant. Consequently, NKDC set out it would support an additional requirement in the dDCO requiring provision for funding for decommissioning both as a result of an extended period of outage and at the end of the lifespan of the development. NKDC also referred to two other projects in support of its position, Helios Renewable Energy Project and Oaklands Farm Solar Park. LCC [REP3-079] supported the position of NKDC.

4.4.57. Numerous IPs at ISH3 [EV6-008] [EV6-009] also supported the position of NKDC and also raised concerns about development consent being sold on to other companies and then these failing and walking away from decommissioning obligations, leaving the taxpayer to clear the site.

4.4.58. In response, the applicant [EV6-008] [EV6-009] [REP3-075] stated:

- A funding bond is not required because policy does not require it.
- It is aware of its obligations under the dDCO with regards to decommissioning and will make suitable plans.
- Any undertaker that has the benefit of the order would similarly plan to comply with those obligations in the future.
- Requirement 19 of the dDCO is enforceable for anyone who holds the benefit of the order.

- Its position was supported by the SoS's consideration of the same matter when granting development consent for Oaklands Farm Solar Park.
- A funding statement is required under Regulation 5 of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 for when an applicant is seeking authorisation for compulsory acquisition of land, and is required to show how it proposes to fund that acquisition and is not required for decommissioning.

4.4.59. Having considered the discussion at ISH3, the ExA through ExQ2.15.1 [PD-010] asked the applicant to provide a revised funding statement that included the costs of decommissioning. This was subsequently provided by the applicant [REP4-006].

EXA'S CONCLUSION ON DECOMMISSIONING

4.4.60. The ExA considers that Requirement 19 of the dDCO [REP5-004] provides a suitable mechanism for securing decommissioning and that it is enforceable for anyone who holds the benefit of the order. The revised funding statement [REP4-006] suitably demonstrates that the applicant is able to fund the decommissioning of the proposed development.

4.4.61. Given this and bearing in mind the position taken by the SoS in the Oaklands Farm Solar Park decision letter, the ExA does not consider a funding bond for decommissioning to be necessary or justified.

APPROACH TO CUMULATIVE EFFECTS ASSESSMENT

4.4.62. The approach to cumulative effects assessment was raised as a concern by LCC [RR-233] [REP1-088], NKDC [RR-305] [REP1-102] and numerous IPs [too many to list]. Further, LCC requested that an inter-relationship report be produced to consider in more detail the interaction between the proposed development and other NSIPs nearby. The example of a similar report for the Gainsborough solar farm NSIPs (Cottam, West Burton, Gate Burton and Tillbridge) was given.

4.4.63. The applicant agreed to produce an inter-relationship report and this was provided at Deadline (D) 1 [REP1-068]. This concluded that interrelationships between relevant projects would likely cause only minimal impacts.

4.4.64. LCC disagreed with this conclusion [REP2-025] noting the overlapping construction timelines with some other relevant NSIPs and the shared use of road infrastructure for construction traffic, especially the A15. LCC also set out that it disagreed with the applicant's assertion that inter-relationships between Springwell and other projects "are not anticipated", especially when five other schemes are under construction during the same period, with three of those overlapping Springwell's peak construction phase.

4.4.65. It was also noted by LCC that it would have anticipated more evidence of dialogue with other developers in the report, including the consideration of shared management plans, mitigation measures, and principles for a co-

operation agreement, especially for overlapping schemes like the proposed NGNS.

4.4.66. The matter was discussed at ISH3 [EV6-002] [EV6-003] and LCC and NKDC reiterated their concerns. In response, the applicant noted that there is more of a physical overlap with the Gainsborough projects, where they deliberately shared a cable corridor as mitigation to minimise impacts in that area. The applicant considered the potential for inter-relationships and impacts was lower in this case. The applicant set out that its assessment did not identify significant cumulative effects with other projects and also noted that it could only undertake its cumulative assessments based on the information currently available for the other projects.

4.4.67. The applicant agreed to update the inter-relationship report [REP4-044] for D4 with any new information that had arose since D1. LCC remained concerned [REP4-051] and noted that the lack of co-operation agreements with the other projects could result in missed opportunities to minimise negative cumulative effects and noted that it still disagreed that cumulative effects would be minimal.

4.4.68. There was still some disagreement at the end of the examination with the SoCG with LCC [REP5-021] noting that whilst it was satisfied with the scope of the cumulative assessment, there were some points of disagreement remaining regarding conclusions made on the significance of inter-project cumulative effects. The SoCG with NKDC [REP5-022] also set out that it does not agree with the applicant's conclusions that cumulative effects would not be significant.

EXA'S CONCLUSION ON APPROACH TO CUMULATIVE EFFECTS ASSESSMENT

4.4.69. The ExA considers that the applicant's methodology for the assessment of cumulative effects is robust and in accordance with the Planning Inspectorate's Guidance on Cumulative Effects Assessment.

4.4.70. The ExA notes that the cumulative assessment and inter-relationship report can only be based on the available information at the time. Further, the ExA accepts the applicant's view that there is less scope than in the case of the Gainsborough projects for co-operation agreements given there is evidently much less interaction of order limits between relevant projects.

4.4.71. Given all of this, the ExA is content that the applicant's approach to cumulative assessment is adequate and meets the requirements of NPS EN-1 and NPS EN-3, as set out above.

4.4.72. Whilst the ExA notes the disagreements about some of the conclusions of the cumulative assessment and inter-relationship report, these are considered where necessary in the topic specific chapters of this report.

4.5. EXA'S CONCLUSIONS ON THE PRINCIPLE OF DEVELOPMENT, INCLUDING CLIMATE CHANGE

4.5.1. The ExA concludes that the proposed development is low carbon infrastructure as set out in paragraph 4.2.5 of NPS EN-1. Further, paragraphs 3.2.6 and 3.2.7 of NPS EN-1 establish there is an urgent need for the proposed development for the UK Government to meet its energy security and net zero ambitions and that this should be given substantial weight. Paragraphs 3.3.25 and 3.3.26 of NPS EN-1 identify that the energy storage provided by the BESS has a key role to play in achieving net zero, providing flexibility to the energy system, to reduce costs and increase reliability.

4.5.2. The ExA considers that the applicant has met the requirements of section 5.3 of NPS EN-1 and there would be clear benefits to climate change as a result of the proposed development, whether compared to CCGT or the current energy grid mix.

4.5.3. The ExA is satisfied that alternatives, including alternative technologies have been considered in a proportionate manner in accordance with requirements of NPS EN-1, EN-3 and the EIA Regulations.

4.5.4. The ExA is content that the applicant has met the requirements of NPS EN-1 (paragraph 4.11.8) in relation to grid connection and has taken a suitably proportionate approach in terms of the information provided. The ExA considers the assumptions about construction commencement and timings in the ES are reasonable and does not consider that potential delivery delays would affect the validity of the ES.

4.5.5. Nonetheless, there is clearly uncertainty surrounding the delivery of the proposed NGNS. The ExA is concerned that the commencement of construction of the proposed development could lead to adverse effects without the delivery of the benefits and recommends that an additional requirement that restricts commencement of development until the NGNS has been granted planning permission is imposed in the rDCO.

4.5.6. The ExA is content that the applicant has met all policy expectations set out in NPS EN-3 (as identified above) in relation to decommissioning and a funding bond is not required.

4.5.7. The applicant's overall approach to cumulative effects assessment, including the production of an inter-relationship report with other nearby projects during the examination is considered to be robust and meets the requirements of NPS EN-1 and NPS EN-3, as set out above.

4.5.8. Due to the combination of the urgent need for the proposed development and beneficial impacts on climate change, the ExA considers that these matters attract very great/ substantial weight in favour of making the order. The ExA also considers that whether the proposed development is delivered in time to meet the government's 'Clean Power by 2030' action plan does not affect this weighting.

4.5.9. If the SoS does not agree that a requirement should be imposed restricting the commencement of the proposed development until the proposed NGNS benefits from planning permission, the ExA considers that great weight should be afforded in favour of making the order.

5. AIR QUALITY

5.1. INTRODUCTION

5.1.1. This chapter considers the effect of the proposed development on air quality, including matters associated with the safety of the proposed battery energy storage system (BESS). Matters relating to firewater from a potential thermal runaway event at the BESS and effects on groundwater are considered in Chapter 8 of this report.

5.2. POLICY BACKGROUND

NPS EN-1

4.12.15	Regulation of releases under the pollution control framework.
4.12.16	Grounds for refusal based on pollution.
5.2.2	Legal limits, national objectives, and targets.
5.2.9	Matters that the Environmental Statement (ES) should describe.
5.2.10	Fine particulate regulations and associated guidance.
5.2.12	Breaches and ability to achieve compliance.
5.2.13	Mitigation measures for operational and construction emissions.
5.2.16	Weight given to a deterioration in air quality and any breaches.
5.2.17	Weight given if near a sensitive receptor site.
5.2.18	Grounds for refusing consent: sensitive receptor sites.
5.2.19	Grounds for refusing consent: a statutory limit, objective, or target.

Local Policies

5.2.1. The North Kesteven District Council (NKDC) Local Impact Report (LIR) [REP1-102] refers to the following policies:

- Central Lincolnshire Local Plan (CLLP) Policy S14: Renewable Energy.
- CLLP Policy S53: Design and Amenity.
- CLLP Policy S54: Health and Wellbeing.

5.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

5.3.1. The applicant's assessment of matters relating to air quality is contained within Chapter 6 of the Environmental Statement (ES) [APP-046], accompanying figures [APP-063] and appendices [APP-080] [APP-081]. The applicant has also provided a BESS Plume Assessment [APP-0152] and an Outline Battery Safety Management Plan (oBSMP) [APP-0147]. Cumulative air quality effects are considered in Chapter 16 of the ES [APP-056].

5.3.2. The study area for the construction and decommissioning phase assessments for sensitive human receptors for demolition, earthworks and general construction activities is up to 250 metres (m) from the order limits in accordance with Institute of Air Quality Management (IAQM), 2024 guidance. For trackout activities, which is defined as the transport of dust and dirt from the construction/ demolition sites onto public road network, the study area is up to 50m from the edge of the roads likely to be affected. The study area for the assessment of road traffic exhaust emissions is determined by the receptors close to roads predicted by the ES [APP-054] as likely to experience a significant change in traffic flows, which comprises the A15, B1191, B1188 and a small number of minor roads.

5.3.3. An assessment of the dust emissions arising from construction and decommissioning activities has been conducted by the applicant with reference to the IAQM, 2024 construction dust guidance. A qualitative screening level assessment of the construction, operational (including maintenance) and decommissioning phase traffic impacts has been carried out with reference to the Environmental Protection UK and IAQM 2017 guidance and Design Manual for Roads and Bridges LA 105 Air Quality guidance. Dust and particulate matter emissions resulting from the operational phase were scoped out due to there being unlikely to be any significant emissions or effects.

5.3.4. The following data sources have been used to understand the existing air quality baseline conditions as at the assessment year (2024):

- Air quality annual status report published by NKDC, including local air quality monitoring data.
- Magic map available online by Department for Environment, Food & Rural Affairs (DEFRA).
- Estimated background air quality data from background maps published by DEFRA.

5.3.5. No on-site air quality monitoring, surveys or site visits were considered necessary by the applicant.

5.3.6. Embedded mitigation includes locating the proposed substation, BESS, collector compounds, standalone inverter, transformer and switchgear at least 250m from residential properties.

CONSTRUCTION PHASE

5.3.7. The ES [APP-046] notes that during construction a number of potential air quality adverse effects could occur. These include dust and particulate matter emissions from demolition, earthworks, construction, trackout, and the operation of the construction equipment. The applicant also sets out that road traffic exhaust emissions could also cause adverse effects.

5.3.8. A number of additional mitigation measures to minimise dust and particulate matter emissions are set out in the Outline Construction Environmental Management Plan (oCEMP) [APP-140], particularly in relation to dust soiling. With these measures taken into account the applicant considers there would be a low risk from earthworks and construction activities, and negligible risk from demolition (during construction) and trackout activities. Overall, the assessment considers that these effects would not be significant.

5.3.9. In terms of road traffic exhaust emissions, the applicant's assessment concludes that with the additional measures set out in the Outline Construction Traffic Management Plan (oCTMP) [APP-141] that residual effects would not be significant.

OPERATIONAL PHASE

5.3.10. The ES considers that with the additional mitigation set out in the Outline Operational Environmental Management Plan (oOEMP) [APP-143] that all effects from road traffic exhaust emissions during operation (and maintenance) would be below the Environmental Protection UK and IAQM, 2017 guidance and screening criteria and therefore not significant.

5.3.11. The BESS Plume Assessment [APP-0152] sets out that under day-to-day operation there is a low risk of a thermal runaway incident and in the event of an incident the hazards are understood and have been evaluated at the concept design stage, to demonstrate that the risk to the local population would be very low.

DECOMMISIONING PHASE

5.3.12. The assessment concludes that there are likely to be similar effects as those during the construction phase. With additional mitigation set out in the Outline Decommissioning Environmental Management Plan (oDEMP) [APP-146] the applicant considers that all effects would be not significant.

CUMULATIVE EFFECTS

5.3.13. The cumulative assessment [APP-056] identifies that there could be potential cumulative effects with the proposed National Grid Navenby Substation (NGNS), the Heath Road, Scopwick residential development (23/1283/FUL) and the RAF Digby proposed office and training building development (24/0959/FUL). The assessment considers that assuming appropriate mitigation would be in place for the other developments, such as site-specific operational environmental management plans to minimise emissions to air,

as is good practice, there would be no significant inter-project cumulative effects.

5.4. ISSUES CONSIDERED DURING THE EXAMINATION

THE BESS AND SAFETY MATTERS

5.4.1. The UK Health Security Agency (UK HSA) set out [RR-429] that it was not content with the applicant's BESS Plume Assessment [APP-0152] and that a revised assessment should be completed using atmospheric dispersion modelling. The UK HSA also set out that this should allow comparison of predicted concentrations of pollutants (to include particulate matter) at the receptor location with applicable health-based standards or guidelines values for air.

5.4.2. The applicant set out at Issue Specific Hearing (ISH) 1 [EV4-006] [EV4-007] that further information had been provided to the UK HSA in relation to this matter. The ExA asked through ExQ1.3.1 [PD-007] whether this information had overcome the concerns of the UK HSA, who confirmed that it had [REP1-106]. However, it appeared to the ExA from the draft Statement of Common Ground (SoCG) [REP1-081] between the parties that this was on the basis that a revised plume assessment would be provided post consent.

5.4.3. At ISH3 [EV6-002] [EV6-003] the ExA expressed concern about this approach and asked how the SoS could be sure that there would unlikely be any harm to human health in the absence of a revised plume assessment given the clear methodological concerns raised by the UK HSA. The applicant agreed to undertake a revised plume assessment, and this was subsequently provided [REP3-077]. This incorporated atmospheric dispersion modelling and considered particulate matter. The UK HSA set out [AS-028] that the revised assessment had fully addressed its concerns.

5.4.4. LCC in its LIR [REP1-102] noted that to enable the Fire and Rescue Service (FRS) to undertake the necessary monitoring to ensure the BESS is in accordance with relevant standards, a financial contribution is required via protective provisions (PP) within the draft Development Consent Order (dDCO). It also set out that this approach had been agreed as part of the Gate Burton, West Burton and Cottam solar farm DCO projects. The applicant revised the dDCO [REP3-004] to include the agreed financial contribution within the PPs for the FRS. In response to questions from the ExA at ISH3 [EV6-002] [EV6-003], the FRS confirmed that with the financial contribution secured it was content that it would be able to suitably monitor and support the proposed development with a thermal runaway event at the BESS.

5.4.5. The oBSMP [APP-0147] sets out that an Emergency Response Plan (ERP) will be provided post consent, in consultation with the FRS and other relevant stakeholders. The ExA asked through ExQ1.3.2 [PD-007] why a draft of this could not be provided during the examination. The applicant responded [REP1-071] by setting out that a draft ERP cannot be provided before the

detailed design stage because the ERP content will be heavily predicated upon the selected BESS technology, design and layout.

5.4.6. NKDC were of the view [REP1-102] that the battery type should be confirmed now, as battery safety guidance published by the National Fire Chiefs Council (NFCC) sets out that applicants should specify their choice of nickel manganese cobalt or lithium iron phosphate battery chemistry in developing emergency response/ battery safety management plans. It was suggested that lithium iron phosphate cells can have an advantage over other lithium-ion chemistries in relation to thermal and chemical stability, which improves battery safety. NKDC also took the view that there is a clear 'perception of harm' to public amenity, safety and well-being as a material planning consideration.

5.4.7. The applicant responded [REP2-023] to these points by setting out that the battery type is not a material planning matter and should not be set as part of any planning decision, as to do so would prematurely lock in a battery technology which is likely to be enhanced by one if not two generations before any procurement would take place. Further, it noted that: no battery type is perfect and each has their positives and negatives to consider; and the applicant would need to choose the best system available at the time based on a range of factors, with safety to site personnel, first responders and the general public being central to that consideration. The applicant did however add NKDC as a consultee to the agreement of the final BSMP.

5.4.8. In relation to perception of harm, the applicant set out [REP2-023] that the plume assessment, oBSMP and discussions with the FRS can give the public confidence that there are adequate controls in place with respect to the BESS, such that any perception of harm is prevented or reduced.

5.4.9. A large number of IPs [too many to list] also raised concerns about the potential danger of a thermal runaway event at the BESS and harm to health that could be caused by air emissions. These include:

- Research shows that BESSs are inherently unstable, including [REP1-115].
- The applicant's assessment of the length of time to contain a BESS fire is understated, for example [RR-031].
- The plume assessment does not consider the effects of smoke or particles created by a fire, nor does it consider the effects of projectiles or other debris released by an explosion, including [REP1-132].
- There are no British Standards or other adequate government regulations being applied to ensure the safe manufacture installation operation and de-commissioning of lithium-ion battery energy storage systems, for example [RR-031].
- The proposed BESS layout does not comply with NFCC guidance. For example, Paragraph 4.5.2 of the oBSMP states that there would be 3m separation gaps between the key components, but guidance states that a standard minimum spacing between units should be 6m, including [REP1-162].

- No proven risk assessment and method statement (RAMS) is in place [RR-160].
- The FRS do not have suitable resources or training to deal with a BESS runaway event, for example [REP1-146].
- There should be an early warning system for local residents should there be a thermal runaway event [EV10-002] [EV10-003].

5.4.10. The applicant responded [REP1-070] [REP2-023] [EV6-002] [EV6-003] [REP3-066] [REP3-075] [Appendix 1, REP5-021] to these matters by setting out:

- It had fully engaged with the UK HSA and FRS, with all matters agreed in the relevant SoCG.
- The applicant had applied industry best practice to the design of the BESS, including the use of relevant NFCC.
- It had been in regular consultation with the FRS who have reviewed the design information so far (including spacing and thermal runaway mitigation proposals) and have not raised concern. The extract from the NFCC guidance states a standard minimum spacing between units of 6m is suggested unless suitable design features can be introduced to reduce that spacing. If reducing distances, an evidence-based case for the reduction should be shown. The applicant considered that this has been discharged through the discussions with the FRS.
- It had investigated BESS safety and fire risk from a thermal runaway event and adopted suitable mitigation measures detailed within the oBSMP and BESS plume assessment. These documents set out the very low likelihood of such an event (1 in 7700 years), an aggregate figure which accounts for all example BESS enclosures within the compound, along with the worst-case impacts that could occur.
- Suitable RAMS would be produced at the right time within the project lifecycle to take account of the most up to date safety considerations, actual products being installed, available technology and best practice.
- The BESS Plume Assessment demonstrates that should a thermal runaway event occur, it would not pose significant risks to nearby human health receptors, including the closest residential receptors to the proposed BESS compound (approx. 440m to the southeast).
- The revised plume assessment has looked at visibility impacts and particulate matter, but that it would not look at explosion risk as this is dependent on final design.
- There would be provision for alerting local community within the final ERP.

5.4.11. Whether battery choice should be secured now was still a matter of disagreement between NKDC and the applicant at the end of the examination [REP5-022]. No areas of disagreement remained between the applicant and the UK HSA [REP3-066] and FRS [REP5-021].

5.5. EXA'S CONCLUSIONS ON AIR QUALITY

5.5.1. The ExA is content that the applicant has undertaken a robust assessment of air quality effects and agrees with the findings of the ES that there would not

be any significant adverse effects as a result of the proposed development or cumulatively with other relevant projects. The ExA is mindful that at the end of the examination there were no disagreements in relation to air quality matters with NKDC, who is satisfied that the oCEMP, oDEMP, and oCTMP consider all relevant matters and that the methods proposed are appropriate to minimise negative air quality impacts [REP5-022]. The ExA agrees with this conclusion and considers the applicant has met the requirements of NPS EN-1 as set out above.

5.5.2. The ExA acknowledges that there are strong concerns about the safety of the proposed BESS. The ExA is satisfied that the revised plume assessment [REP3-077] suitably assesses the effects of a thermal runaway event and demonstrates that there are unlikely to be any adverse effects on health. This is a view shared by the UK HSA [AS-028] [REP3-066]. Further, the ExA considers that the oBSMP [REP1-048] provides suitable mitigation and adequately secures an ERP. The ExA accepts that the ERP cannot be meaningfully drafted before the final design of the proposed development, as it is highly dependant on technology choice and site layout which are currently not fully known. The oBSMP adequately ensures that when it is finalised the design of the BESS will be in line with the latest guidance at that time.

5.5.3. In terms of battery choice, the ExA considers that to secure this now could result in improvements in technology being missed and would unreasonably restrict the applicant's choice. The ExA are mindful that NKDC, the FRS and the Environment Agency would all be consultees to the final BSMP as secured by requirement 7 of the rDCO.

5.5.4. The FRS has confirmed that with the financial contribution secured in the PPs of the rDCO, it is content it would be able to provide suitable support to the proposed development. Therefore, the ExA does not have any concerns about FRS staffing resources.

5.5.5. The ExA is of the view that the revised plume assessment, contents of the oBSMP, the applicant's ongoing engagement with the FRS and the position of the UK HSA should give local residents comfort that there would not be any adverse effects on health from air emissions should a thermal runaway event occur at the BESS. On this basis, the ExA does not agree with NKDC that the perception of harm should weigh against the proposed development.

5.5.6. Overall, the ExA concludes that air quality, including BESS safety is a matter of neutral weight in the planning balance.

6. BIODIVERSITY

6.1. INTRODUCTION

6.1.1. This chapter considers the effect of the proposed development in relation to biodiversity. The effects on European sites in the context of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) are separately considered in Chapter 15 of this report.

6.2. POLICY BACKGROUND

Assessment, Mitigation, and Protection

NPS EN-1

5.4.17	Effects on designated sites, protected species, habitats and other species.
5.4.35	Avoidance, mitigation, compensation and enhancement measures.
5.4.39	Environmental Improvement Plan 2023 and Environment Act 2021.
5.4.43	Weight given to residual harm.
5.4.44	Delivering and maintaining mitigation and Biodiversity Net Gain (BNG).
5.4.45	Mitigation agreed with Statutory Nature Conservation Bodies, licences.
5.4.48	Weight for designated sites, protected species, habitats and other species.
5.4.54	Species and habitats of importance for the conservation of biodiversity.
5.4.55	Harm to a protected species and relevant habitat.

NPS EN-3

2.10.82	Security, lighting, and closed-circuit television (CCTV).
2.10.83	Site boundaries, hedges, and fencing.
2.10.130	Ecological monitoring.

Regional and Local Sites

NPS EN-1

5.4.12	Sites of regional and local biodiversity interest.
5.4.52	Regional and local designations.

Ancient Woodland, Ancient Trees, Veteran Trees, and Other Irreplaceable Habitats

NPS EN-1

5.4.14	Definition of irreplaceable habitats.
5.4.32	Ancient woodland, ancient and veteran trees and irreplaceable habitats.
5.4.53	Loss or deterioration of irreplaceable habitats.

Enhancements and BNG

NPS EN-1

4.6.1	Environmental net gain.
4.6.3	Application of BNG policy.
4.6.6	Opportunities to enhance the natural environment.
4.6.7	Use of the biodiversity metric to calculate BNG.
5.4.19	Conserving and enhancing the natural environment.
5.4.46	Weight given to environmental and biodiversity enhancements.
5.4.47	Reasonable opportunities for enhancement.

Local Policies

6.2.1. The Local Impact Reports (LIR) provided by Lincolnshire County Council (LCC) [REP1-088] and North Kesteven District Council (NKDC) [REP1-102] identified the following relevant local policies:

Central Lincolnshire Local Plan 2023-2043 (CLLP)

- Policy S14 - Renewable Energy.
- Policy S59 - Green and Blue Infrastructure Network.
- Policy S60 - Protecting Biodiversity and Geodiversity.
- Policy S61 - Biodiversity Opportunity and Delivering Measurable Net Gains.
- Policy S66 - Trees, Woodland and Hedgerows.

Scopwick and Kirkby Green Neighbourhood Plan 2021-2036 (SKGNP)

- Policy 3 - Protecting and Enhancing Biodiversity.

6.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

6.3.1. The applicant's assessment of matters relating to biodiversity is largely contained within Chapter 7 of the Environmental Statement (ES) [APP-047], the accompanying figures [APP-064] and appendices [APP-082 to APP-095].

The applicant's assessment of cumulative effects on biodiversity is contained in Chapter 16 of the ES [APP-056].

6.3.2. In relation to study areas, the extent of the zone of influence of the proposed development varies according to the ecological receptor in question. Full details of the study areas, survey methodologies, survey dates and guidance used for each survey can be found in the following appendices to ES Chapter 7:

- Breeding Bird Survey [APP-083].
- Wintering Bird Survey [APP-084].
- Barn Owl Survey [APP-085].
- Bat Activity Survey [APP-086].
- Riparian Mammal and Aquatic Habitat Assessment [APP-088].
- Notable Arable Flora Survey [APP-089].
- Local Wildlife Site Verges Survey [APP-090].
- Badger Survey [APP-091].
- Important Hedgerow Survey [APP-092].
- Arboricultural Impact Assessment [APP-093].

6.3.3. The applicant's methodology for the assessment of effects on biodiversity is set out in section 7.4 of ES Chapter 7 [APP-047]. The applicant explains the assessment was undertaken in accordance with Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines.

6.3.4. The applicant's justification for scoping matters into/ out of the assessment can be found in tables 7.3 and 7.4 of ES Chapter 7 [APP-047]. The receptors and matters that were scoped into the applicant's assessment are as follows:

- Local wildlife sites (LWS) within the order limits.
- Hedgerows and hedgerow trees.
- Notable arable flora.
- Ground nesting birds.
- Barn owls.
- Wintering birds.
- Bats.

EXISTING BASELINE CONDITIONS

Overview

6.3.5. The application site and surrounding area is dominated by arable land with scattered broadleaved and mixed woodland plantations and areas of scrub. The majority of the fields are bordered by hedgerows or dry-stone walls. There are four ponds within the order limits and an additional ten within the area surveyed by the applicant. Streams and ditches transect many of the fields, although most were dry at the time of the applicant's surveys.

International Statutory Designated Sites

6.3.6. There are no internationally protected nature conservation sites within 10km of the order limits.

6.3.7. 'The Wash' Ramsar/ Special Protection Area (SPA)/ Special Area of Conservation (SAC) is approximately 35 kilometres (km) from the order limits. The Wash is designated for wading birds and estuarine habitats. However, its habitats and bird populations are not expected to be affected by works due to distance and the nature of the works.

National Statutory Designated Sites

6.3.8. There are no nationally protected statutory designated nature conservation sites within 2km of the order limits. The High Dyke Site of Special Scientific Interest (SSSI) is 3.6km southwest of the order limits. The High Dyke SSSI impact risk zone covers a small part of the western edge of the order limits. However, none of the developments which are considered of concern for air pollution (aviation, livestock and poultry units, slurry lagoons) relate to the proposed development.

6.3.9. There is one statutory designated geological site, Metheringham Heath Quarry SSSI, approximately 1.9km north-west of the order limits. The distance from this SSSI is considered by the applicant [APP-075] to be sufficient to ensure that there will be no adverse impacts on the SSSI as a result of the proposed development.

Non-Statutory Designated Sites

6.3.10. There are four LWS, as listed below, that the applicant has identified would be affected by the proposed development as sections of these grassland road verges would need to be removed for highways access.

- A15, Green Man Road to Cuckoo Lane.
- A15, House Farm to Dunsby Pit Plantation.
- Temple Road Verges, Welbourn to Brauncewell.
- Navenby Heath Road Verges.

6.3.11. The above LWS are designated for and qualify as calcareous grassland with the required number of qualifying species present. LWS are of county importance. Further details can be found in the Local Wildlife Site Verges Survey [APP-090].

6.3.12. There is one area of ancient woodland (long wood) and 17 other LWSs that are not adjacent to the Order Limits but within 2km of the survey area. The applicant determined that given the distance of these sites from the proposed development and a lack of relevant links or impact pathways, they would not be affected during any phase of the proposed development.

Hedgerows and Hedgerow Trees

6.3.13. The applicant explains in its Preliminary Ecological Appraisal [APP-082] that most hedgerows in the study area were relatively species-poor and comprised either solely of hawthorn, or of hawthorn and blackthorn with occasional elder, ash, sycamore, and dogwood. Many of the hedgerows had immature or mature oak, ash, sycamore, elder, or beech trees. Most

appeared to have been flailed within the previous two or three years and none of the hedgerows appeared to have been laid.

6.3.14. Of the hedgerows that would potentially be affected by the proposed development, the applicant identifies in the ES [APP-064] that the majority surveyed were not species-rich (they had less than five woody species per 30 metres (m)). The applicant states that a total of 17 hedgerows within the order limits were deemed likely to be important under the wildlife and landscape criteria of the Hedgerows Regulations 1997. These all had at least six or more species per 30m. Further details can be found in the Important Hedgerow Survey [APP-092].

Notable Arable Flora

6.3.15. The applicant's surveys identify that Springwell West and Springwell Central are considered of county importance for arable flora. Of the species recorded, four are listed as near threatened or vulnerable on the Botanical Society of Britain and Ireland's (BSBI) Vascular Plant Red List for England of Threatened Species as listed below:

- Stinking Chamomile (Anthemis cotula) – Vulnerable.
- Hound's-tongue (Cynoglossum officinale) – Near threatened.
- Night-flowering Catchfly (Silene noctiflora) – Vulnerable.
- Wild Pansy (Viola tricolor) – Near threatened (although widespread in Lincolnshire).

6.3.16. Further details of the notable arable flora in the study area can be found in the Notable Arable Flora Survey [APP-089].

Ground Nesting Birds

6.3.17. The applicant identifies that the area within the order limits is considered of at least county importance for the farmland bird assemblage present as it supports a range of ground nesting species including skylark (Alauda arvensis), corn bunting (Emberiza calandra), quail (Coturnix coturnix) and grey partridge (Perdix perdix) [APP-064].

6.3.18. The applicant also notes that a single curlew (Numenius arquata) was seen on three occasions flying over the order limits to and from a likely nesting location within RAF Digby. The applicant states that curlew were not found to be breeding within the order limits, although they may occasionally use grassland or stubble within the area for foraging.

6.3.19. Further details of the ground nesting birds in the study area can be found in the Breeding Bird Survey [APP-083].

Barn Owls

6.3.20. Barn owl (Tyto alba) is a sensitive breeding species listed in Schedule 1 of the Wildlife and Countryside Act 1981 (as amended).

6.3.21. Although barn owls were not found to be nesting within the order limits there was evidence that they are using the area throughout the order limits for

foraging and roosting. The proposed development site is therefore considered of local importance for barn owls.

6.3.22. Further details of barn owls within the study area can be found in the Barn Owl Survey [APP-085]. The survey is confidential as it details locations of potential barn owl nesting sites.

Wintering Birds

6.3.23. A total of 67 bird species were identified to be wintering within the order limits, of which 40 species are specially protected or notable. Populations of individual species, grey partridge (Perdix perdix) and stock dove (Columba oenas) were considered of county importance. Populations of corn bunting (Miliaria calandra) were considered of district importance. The remaining species were assessed as having been present in numbers of no more than local importance.

6.3.24. Based on the diversity of species recorded, the wintering birds found within the order limits were considered of district importance. Further detail of the wintering birds in the study area can be found in the Wintering Bird Survey [APP-084].

6.3.25. No qualifying species of the Wash SPA were recorded using the order limits during the applicant's surveys. There was a single flyover pink-footed goose (Anser brachyrhynchus) observed by the applicant. The applicant does not consider it likely that the area within the order limits and surrounding area is functionally linked to the Wash SPA. Further details on this are provided in the HRA No Significant Effects Screening Report [APP-0150].

Bats

6.3.26. A high diversity of bat species is identified by the applicant across the proposed development area with at least 10 of the 12 species considered to be present within Lincolnshire having been positively identified [APP-064].

6.3.27. In line with the Bat Mitigation Guidelines (2023), the assemblage of bat species within this geographic region of the UK could be considered of national importance, the proposed development site could be of regional importance for barbastelle and of local importance for the remaining species identified in the surveys.

6.3.28. It is identified by the applicant that bats could be using mature trees or buildings within the order limits for breeding or at least breeding nearby and using the area within the order limits during the breeding season for foraging and commuting.

6.3.29. Several hedgerow trees across the order limits are identified to have features suitable for roosting bats and barns adjacent to the order limits could also be used for roosting.

6.3.30. Further details on the bat activity within the study area can be found in the Bat Activity Survey [APP-086], Bat Activity Survey Addendum [APP-087] and Further Targeted Bat Activity Surveys [APP-094].

CONSTRUCTION PHASE

6.3.31. This section sets out the applicant's assessment of effects of the proposed development in the construction phase followed by an explanation of how the mitigation measures described would be secured.

ASSESSMENT OF EFFECTS

Non-Statutory Designated Sites

6.3.32. As described above, there are sections of four LWS grassland verges that would need to be removed for highways access. The total length of the four grassland verges proposed to be removed is approximately 539m. The applicant explains that this represents less than 5% of the total length of the LWS affected and is therefore a relatively small proportion of the LWS affected.

6.3.33. New calcareous grassland field margins are proposed to be created to compensate for any LWS calcareous grassland lost. However, this calcareous grassland habitat creation will take time to develop and is not anticipated to be beneficial during the construction phase.

6.3.34. The applicant considers that there would be an adverse effect at the local level with regards to the LWS which is categorised as not significant.

Hedgerows and Hedgerow Trees

6.3.35. The applicant estimates that 48 sections of hedgerow would be affected by cable and internal access track crossings or highways access, including visibility splays and passing bays. Ten of these hedgerows were deemed likely to be ecologically important and 2 were identified as historically important. The applicant estimates the total loss of hedgerow across the order limits to be approximately 1,249m.

6.3.36. After cable installation and access track completion, the hedgerows would be re-instated by planting appropriate like-for-like species. However, it will take approximately 10 years for the compensatory new hedgerows to fully mature and is therefore not anticipated to be beneficial during the construction phase.

6.3.37. The applicant considers that there would be an adverse effect at the local level with regards to the hedgerows and hedgerow trees which is categorised as not significant.

Notable Arable Flora

6.3.38. The applicant explains that there would be a relatively short period of time when notable arable flora could potentially be impacted in the construction phase or would not be able to establish due to ground disturbance, such as

during installation of solar photovoltaic (PV) panels. Furthermore, the applicant stated that due to the 10m buffer proposed between the proposed development and field margins, the majority of notable arable flora are unlikely to be affected.

6.3.39. Therefore, the applicant considers that there would be no significant effect on the conservation status of notable arable flora during construction.

Ground Nesting and Wintering Birds

6.3.40. The applicant states that the proposed development would result in loss of large open arable fields used for nesting and foraging by ground nesting birds and disturbance during the construction phase.

6.3.41. Measures to manage and improve mitigation areas retained for ground nesting birds are documented within the outline Landscape and Ecology Management Plan (oLEMP) [APP-0142]. The applicant states that although this habitat creation would take time to establish, it is anticipated that ground nesting birds would utilise the improved habitat relatively quickly. The applicant considers that the existing ground nesting bird assemblage would be maintained.

6.3.42. There would also be disturbance and loss of habitat for wintering birds during the construction phase due to the placement of solar PV panels. The same measures to manage and improve mitigation areas retained for ground nesting birds would also provide wintering bird habitat.

6.3.43. The applicant considers that there would be an adverse effect at the local level with regards to habitat loss and disturbance during construction for ground nesting and wintering birds which is categorised as not significant.

Barn Owls

6.3.44. Construction activities have the potential to disturb breeding barn owl, if breeding within approximately 200m of the order limits. See below for information on surveys and measures secured in the outline Construction Environmental Management Plan (oCEMP) [APP-0140].

6.3.45. The applicant explains that foraging habitat would not be affected as field margins, watercourses and woodlands would be retained and protected with suitable buffers, pollution control measures and any lighting mitigated.

6.3.46. The applicant considers that, taking into account the mitigation measures referenced below, any adverse effects on barn owl during construction are anticipated to be not significant.

Bats

6.3.47. The applicant explains that fragmentation of bat habitat resulting from removal of sections of hedgerow 10m wide or more could affect foraging and commuting behaviour of some bat species. The sections of hedgerow to be removed for highways access, internal access tracks and cable installation would all create gaps of at least 10m during the construction phase.

However, the applicant states that the relatively low number of bat passes which were recorded around expected emergence times did not indicate that there were likely to be any significant communal bat roosts for any bat species near to where hedgerow removal works are proposed.

6.3.48. Re-instatement planting with appropriate hedgerow species would be carried out as soon as possible after construction works in the correct planting season and the applicant anticipates that bats would be able to use the re-instated hedgerows once sufficient vegetation has established.

6.3.49. The applicant considers that there would be an adverse effect at the local level on bats which is categorised as not significant.

SECURING OF MITIGATION MEASURES

6.3.50. The following measures are detailed in the oCEMP [APP-0140] and secured by requirement (R) 12 of the draft Development Consent Order (dDCO) [APP-012]:

- The adoption of construction industry good practice and environmental protection legislation during construction to prevent potential adverse effects from dust deposition, air pollution, pollution incidents and water quality on LWS, hedgerows, hedgerow trees, and notable arable flora.
- Control measures for vegetation clearance to avoid the main nesting period for ground nesting birds.
- Pollution and noise control measures to mitigate habitat degradation and protect areas retained for farmland and wintering birds.
- Surveys for barn owl in advance of construction works commencing and measures, including appropriate buffers from nests during the breeding season to ensure disturbance is avoided.
- Control measures to mitigate potential disturbance from light, noise and vibration for bats.
- Temporary installation of structures in hedgerow gaps mimicking the hedgerow which bats could use for echolocation when commuting.

6.3.51. Trees that have been identified with bat roost potential would be protected by a buffer of 10m for hedgerow trees and 15m for woodland, as detailed in the Design Commitments [APP-0138] and secured by R5 of the dDCO [APP-012].

6.3.52. Habitat creation and improvement measures for ground nesting birds, wintering birds, and barn owls are documented within the oLEMP [APP-0142]. Hedgerow and tree planting measures required to mitigate impacts to bats and provision of bat boxes to improve roosting opportunities are also documented within the oLEMP which is secured by R8 of the dDCO [APP-012].

OPERATIONAL PHASE

6.3.53. This section sets out the applicant's assessment of effects of the proposed development in the operational phase followed by an explanation of how the mitigation measures described would be secured.

ASSESSMENT OF EFFECTS

Hedgerows and Hedgerow Trees

6.3.54. The total amount of new hedgerow planting proposed by the applicant within the order limits is approximately 15,563m. The applicant points out that this is more than 12 times the amount of hedgerow proposed to be removed. In addition, 16 hectares (ha) of new tree belts are proposed. The applicant considers that this would be a significant beneficial effect at the local level.

Ground Nesting and Wintering Birds

6.3.55. The habitat creation and habitat management regimes are anticipated by the applicant to enhance the quality of nesting habitat and increase bird foraging habitat for ground nesting birds. Likewise, these measures would be similarly beneficial for wintering birds.

6.3.56. The applicant considers that this would result in a significant beneficial impact on both ground nesting and wintering birds once habitats have established during the operational phase.

Bats

6.3.57. The applicant notes, using the precautionary principle (as per CIEEM Guidelines) that changes to the habitat due to the placing of solar PV panels could potentially adversely affect some bat species using both hedgerows and open fields across the order limits during the operational phase.

6.3.58. However, taking into account the design measures, secured through the Design Commitments [APP-0138], and additional mitigation measures detailed in the oLEMP [APP-0142], the applicant concludes that the potential adverse effect on bats would be not significant.

Other Receptors

6.3.59. The applicant did not identify any likely significant effects on other receptors included in the baseline assessment during the operational phase.

MITIGATION

6.3.60. The following measures are detailed in the oLEMP [APP-0142] and secured by R8 in the dDCO [APP-012]:

- Appropriate management of created and improved hedgerows and hedgerow trees would be required for a period of at least 30 years to ensure successful establishment and condition.
- Appropriate habitat management regimes to achieve quality nesting habitat and an increase in bird foraging habitat.

6.3.61. The oLEMP states that protected species monitoring will be undertaken to understand the effectiveness of the mitigation. This will involve surveys for ground nesting birds and bats as follows:

- For bats, the baseline activity surveys (carried out in spring, summer and autumn) would be repeated in years 1, 3, 5 and 10. The need for any further monitoring would then be reviewed.
- For ground nesting birds, the baseline surveys would be repeated in years 1, 3 and 10. With specific assessment of skylarks, within areas set aside for mitigation, monitored in years 1, 3 and 5 then reviewed.

DECOMMISSIONING PHASE

RESIDUAL EFFECTS

6.3.62. The applicant considers that the residual effects of the decommissioning phase on notable arable flora, ground nesting birds, barn owl, wintering birds and bats would be similar to, or less than, the residual effects generated during the construction phase.

6.3.63. The applicant did not identify any likely significant effects on other receptors included in the baseline assessment during the decommissioning phase.

MITIGATION

6.3.64. Measures to mitigate and manage decommissioning related effects on notable arable flora, ground nesting birds, barn owl, wintering birds, bats and their habitats are detailed and secured in the oDEMP [APP-0146].

BIODIVERSITY NET GAIN

6.3.65. Habitat creation and enhancement proposals are detailed in and secured by the oLEMP [APP-0142] including the green infrastructure parameters in appendix 1 and the following management objectives:

- Management Objective 3 – Extend and enhance existing LWSs and priority habitats, including the creation of calcareous grassland adjacent to the A15.
- Management Objective 4 – Create a mosaic of habitats, such as new grassland and arable margins, to support farmland birds such as skylark and grey partridge and species such as brown hare.
- Management Objective 5 – Use locally native species wherever possible to create new habitats, increase the number of pollinator species and create food sources for birds such as skylark and yellow hammer and other animals during winter months.
- Management Objective 6 – Use land under and between solar panels to deliver biodiversity benefit for pollinators and farmland birds.
- Management Objective 7 – Establish new planting and landforms at the earliest practicable opportunity.
- Management Objective 8 – Deliver a biodiversity net gain (BNG) beyond the minimum of 10%.

6.3.66. The applicant's BNG Statement [APP-095] calculates that the proposed habitat creation and enhancement measures would result in a BNG increase of 31.66% for habitat units, 20.68% for hedgerow units and no change in watercourse units. However, R8 of the dDCO [APP-012] submitted with the

application only secures a minimum of 10% BNG in habitat units and hedgerow units.

CUMULATIVE EFFECTS

6.3.67. The applicant considers that provided there would be adequate mitigation for the National Grid Navenby Substation development there should be no inter-project cumulative effects on any common receptors [APP-056].

6.3.68. The applicant also states [APP-056] that if any large scale solar or housing developments involved the loss of arable land and did not provide mitigation, then these could have a significant adverse effect on ground nesting birds and foraging bats. However, the applicant considers that this would be an independent effect. As the applicant does not consider the proposed development likely to have any significant adverse residual effects, it concludes that there would be no inter-project cumulative effects.

6.4. ISSUES CONSIDERED DURING THE EXAMINATION

HABITATS AND SPECIES

Local Wildlife Sites and Important Hedgerows

6.4.1. In its LIR, NKDC [REP1-102] raised concern that there was a lack of detail on how the mitigation hierarchy had been applied for LWSs and important hedgerows, and why habitat losses could not be avoided. Specifically, NKDC questioned what had been done at the design stage to avoid or proactively minimise impacts.

6.4.2. The applicant provided further detail in [REP2-023] confirming that an appraisal was carried out on various site options for the substation and compounds including various highways access options. The applicant determined that, given the extent of the LWS road verges along the A15 and other considerations such as traffic and road safety, there was no feasible alternative to the chosen sites, and removal of sections of LWSs would be unavoidable and required to provide safe highways access to the proposed development.

6.4.3. The applicant stated that the extent of the LWSs to be affected has been kept to a minimum and it had managed to avoid altogether other important features, such as woodland and ponds. The applicant also stated that full surveys of the sections of LWS affected have been carried out to fully quantify and assess the potential impact [APP-090] and mitigation measures are detailed within the oLEMP [REP1-064].

6.4.4. The matter was raised for discussion at Issue Specific Hearing (ISH) 3 [EV6-006] [EV6-007]. NKDC confirmed that it considered adequate steps had been taken by the applicant to avoid or proactively minimise impacts on LWSs and hedgerows. The applicant and NKDC confirmed there were ongoing discussions regarding monitoring measures, for which an updated oLEMP was provided at deadline (D) 3 [REP3-037] setting out the terms of

reference for an ecological steering group (ESG). Refer to paragraphs 6.4.41 to 6.4.46 below for more information regarding the ESG.

6.4.5. At D3 [REP3-017] the applicant clarified that as the entire hedgerow length was not surveyed for each hedgerow, it does not quite equate to a full formal Hedgerows Regulations 1997 survey. Hedgerows previously identified as 'likely' to be ecologically important should instead be referred to as 'potentially' important. The applicant explained [REP4-049] that it had taken a precautionary approach in the assessment and assumed any potentially important hedge as actually important in relation to the ecological criteria of the Hedgerow Regulations.

6.4.6. The final signed Statement of Common Ground (SoCG) between the applicant and NKDC [REP5-022] records agreement that mitigation and habitat enhancement measures for hedgerows and trees would be sufficient to avoid adverse effects.

Notable Arable Flora

6.4.7. In relation to scarce arable flora NKDC raised concern in its LIR [REP1-102] regarding fields Bcd105 and Bcd115 and target notes 9 and 10 (shown on the arable survey location figures [APP-089]) where the most diverse assemblage of notable plants were found. Specifically, NKDC were concerned that these areas would be converted to grassland.

6.4.8. The applicant confirmed in [REP2-023] that its intention was to cultivate the 6m margins of the fields to enable the notable arable flora to survive.

6.4.9. The matter was raised for discussion at ISH3 [EV6-006] [EV6-007]. The ExA questioned the applicant on the detail of the green infrastructure BNG parameter plans [REP1-032] which did not appear to show the 6m margins coinciding with the locations of target note 9 or 10 on the arable survey location figures [APP-089]. Following the hearing, the applicant provided an updated oLEMP [REP3-037] including appendix 5, a specific arable weed management plan.

6.4.10. At D4 NKDC confirmed [REP4-053] that the updated oLEMP at D3 partially clarified the areas to be managed for scarce arable flora within paragraph 6.1.43 and that this was considered to be acceptable and securable. In response to ExQ2.4.7 [PD-010], the applicant updated appendix 5 of the oLEMP [REP4-030] providing further clarification on the areas that would be subject to management for the benefit of arable weeds.

6.4.11. LCC confirmed at D4 [REP4-052] that it welcomed the additional details relating to the management of arable field margins provided in the oLEMP and agreed with the applicant's proposed approach.

6.4.12. With regards to monitoring measures, the final oLEMP provided at D5 [REP5-013] set out the terms of reference agreed with the LCC and NKDC for the ESG. The oLEMP had also been updated at D3 to include that notable arable weeds would be monitored in years 1, 3 and 5, and then

every 5 years up to year 30 to ensure that management of the margins continues to maintain the arable flora recorded.

Bats

6.4.13. In response to ExQ1.4.9 [PD-007], the applicant stated [REP1-071] that it was considered low risk that a bat roost would be directly affected, especially any significant bat roosts (such as a large maternity roost) and it therefore was not proposing to draft a ghost bat licence application.

6.4.14. Natural England (NE) confirmed [REP4-057], that based on surveys undertaken to date, it was considered low risk that a bat roost would be directly affected. Therefore, NE agreed that it would be unlikely to be necessary to produce a ghost bat licence application. However, NE did advise that if trees are identified that require removal that they should have an appropriate level of survey conducted on them.

6.4.15. The applicant confirmed [REP5-028] that its approach regarding roosting bats, as outlined in the oLEMP [REP5-013], would be to subject all trees that require removal to a climbing and or emergence survey prior to construction or any tree removal. The applicant stated that, in the event that evidence of roosting bats is identified, then a licence from NE would be applied for and a suitable suite of mitigation measures would be agreed and delivered.

6.4.16. In the ecology review appended to its LIR [REP1-102], NKDC requested the proposed numbers and the broad specifications for bat, bird and owl boxes. It stated that this was needed to set the parameters for agreement post-consent, and to permit confidence in the permanence of the habitat provision.

6.4.17. At D4 NKDC [REP4-053] raised concern that the D3 version of the oLEMP [REP3-037] still did not provide a clear commitment in relation to the numbers of bird and bat boxes to be provided. NKDC acknowledged that the locations may need to be confirmed in detailed design stage when producing the final LEMPs, but stated that it should be possible to commit to the minimum number that will be provided.

6.4.18. The applicant responded [REP5-028] that it would agree the number and location of bat and bird boxes in consultation with the relevant local planning authority and this would be detailed in the final LEMPs to be submitted to the local planning authority for approval.

6.4.19. The final SoCG between the applicant and NKDC [REP5-022] records that NKDC agreed with the approach within the Bat Activity Survey Report [REP1-034], proposals for further surveys, and the resolution of operational lighting design set out in the Design Commitments [REP3-030].

Ground Nesting Birds

6.4.20. In its LIR, NKDC [REP1-102] requested further information to evidence that the post-development habitats for ground nesting birds would be adequate to maintain the conservation status of these species. NKDC was concerned

that it was not clear how much reliance is placed on land within the proposed development contributing to the conservation of ground nesting birds, and whether this is realistic and certain. NKDC also questioned whether all ground nesting birds are suitably addressed, for example quail.

6.4.21. The applicant responded at D2 [REP2-023] to provide further detail on how the calculation was made using skylark as a proxy to determine that the post-development habitats would be adequate. The applicant confirmed that the mitigation proposed for the proposed development would include 100ha of new grassland creation as well as provision of rough grass and flower rich grassland along margins to boost insect abundance and provide a source of winter seed. With regards to quail, the applicant confirmed that (as detailed in the oLEMP [REP1-064]) pre-construction surveys would be carried out to determine if breeding quail, or any other nesting bird species are present, and if identified, then works would cease in those fields until the young had fledged. The applicant did not anticipate any impacts on any ground nesting birds including quail.

6.4.22. The matter was raised for discussion at ISH3 [EV6-006] [EV6-007]. NKDC confirmed that it was satisfied with the detail the applicant had provided on how it had made the calculations, the principles it had taken and the area of land that would be needed to provide the mitigation. NKDC requested a plan showing which fields would be provided for ground nesting birds. The applicant provided a plan at D3 showing this in an update to the green infrastructure parameters at appendix 1 of the oLEMP [REP3-037].

6.4.23. Paragraph 6.1.42 of the oLEMP submitted at D3 stated that “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.” NKDC raised concern [REP4-053] that this was too vague as a commitment and consequently it was not a good basis for agreement of the final specification post-determination.

6.4.24. The applicant responded [REP5-028] that the final proportion of arable margins will be defined within the final LEMPs at the detailed design stage. The final LEMPs would be submitted to the local planning authority for approval in accordance with R8 of the dDCO [REP5-004].

EXA’S CONCLUSIONS ON HABITATS AND SPECIES

6.4.25. The ExA is satisfied that adequate steps have been taken by the applicant to avoid or proactively minimise impacts on LWSs and hedgerows. Whilst there would be an adverse effect on LWSs, hedgerows and hedgerow trees in the construction phase, the ExA agrees with the applicant that these effects would not be significant.

6.4.26. The ExA finds that due to habitat loss in the construction phase and disturbance to habitats in both the construction and decommissioning phases, there would be adverse impacts on ground nesting birds, barn owl, wintering birds and bats during these phases. However, taking into account

the mitigation measures detailed in the oCEMP [REP4-025], oLEMP [REP5-013] and oDEMP [REP4-035], the ExA is content that the resulting residual adverse effects would not be significant.

6.4.27. The ExA is also of the view that, taking into account the design measures set out in the Design Commitments [REP3-030], and additional mitigation measures detailed in the oLEMP [REP5-013], adverse effects on bat species using both hedgerows and open fields across the order limits during the operational phase would be not significant.

6.4.28. The ExA is satisfied that the management and monitoring measures set out in the oLEMP [REP5-013] would ensure that the proposed development would not have a significant effect on the notable arable flora.

6.4.29. The ExA finds that the 15,563m of proposed hedgerow and 16ha of new tree belts would result in a significant permanent benefit as the proposed planting would remain in place once the proposed development has been decommissioned/ removed. The ExA also finds that there would be significant benefits associated with both ground nesting and wintering birds once habitats have established during the operational phase.

6.4.30. The ExA considers that it is acceptable for the detail of the final proportion of arable margins sown with a bird cover crop and the number and location of bird and bat boxes to be defined within the final LEMPs as this would be subject to approval from the local planning authority in accordance with R8 of the dDCO [REP5-004].

6.4.31. The ExA is content that the applicant has applied appropriate avoidance, mitigation, compensation and enhancement measures as an integral part of the proposed development in accordance with paragraph 5.4.35 of National Policy Statement (NPS) EN-1.

BIODIVERSITY NET GAIN

BNG Baseline

6.4.32. The BNG baseline calculations were discussed at ISH3 [EV6-006] [EV6-007]. NKDC confirmed it had reviewed the BNG baseline calculations and reported it had returned a number of comments for clarification in relation to the BNG approach with the applicant, who confirmed that they would be addressing those comments in full at D3 in the form of an updated BNG assessment [REP3-021].

6.4.33. NKDC [REP4-053] stated that confidence is needed that the baseline is correctly weighted. NKDC's concern was that if the habitat type is mis-identified and consequently under-weighted in the metric then this would inflate the predicted level of BNG. Specifically, NKDC requested further evidence of the following:

- That the woodlands classified as 'other woodland' types were not instead the higher value 'lowland mixed deciduous woodland'.

- That the survey undertaken to classify hedgerows is derived from 30m survey sections in accordance with the method described in the Department for Environment, Food and Rural Affairs (DEFRA) Hedgerow Survey Handbook.
- That the species list used for the hedgerow classification was the full list of British native and archaeophyte woody species, including sycamore and not the reduced list of species used for the hedgerow regulations survey.

6.4.34. The applicant responded [REP5-028] that, as a precautionary approach, the following updates were made to the BNG Assessment [REP5-010]:

- All woodland polygons within the order limits were reviewed and the classification was updated from 'other woodland' to 'lowland mixed deciduous woodland' at polygons 344, 348, 357, 358, 364, 548, 550, and 551.
- All hedgerows considered to be important with data on species per 30m section were re-classified as 'species-rich'.
- All hedgerows without species per 30m section data, but where 5 or more species were recorded, were also considered 'species-rich' on a precautionary basis.

Extent of Net Gain Secured

6.4.35. In their RRs, NKDC [RR-305], LCC [RR-233] and NE [RR-291] expressed their expectation that a higher percentage of BNG should be committed to in R8 of the dDCO [APP-012] given the BNG statement [APP-095] indicated that higher percentages were expected to be achieved.

6.4.36. At ExQ1.4.1 [PD-007], the applicant was asked to justify extent of BNG secured in the dDCO. The applicant responded [REP1-071] that it could not commit to exact figures as they may change during detailed design. However, the applicant stated that as it would be required to implement an approved LEMP, based on the oLEMP [REP1-064], which includes the proposed planting that the BNG assessment is based on, the SoS can have confidence and therefore place weight on the fact that it would deliver BNG well in excess of the 10% secured by R8.

6.4.37. At D2, in response to LCC's LIR [REP1-088], the applicant confirmed [REP2-023] it would update the dDCO to include higher percentages for area-based habitats and hedgerows units. The matter was discussed further at ISH3 [EV6-006] [EV6-007] and the applicant confirmed that a higher percentage for watercourse units would also be included in the dDCO.

6.4.38. By the end of the examination, R8 of the final dDCO [REP5-004] was updated to secure a minimum net gain of 27.16% for area-based habitat units, 19.06% for hedgerow units and 13.59% for watercourse units.

Trading Rules

6.4.39. LCC noted in its RR [RR-233] that the trading rules set out in the statutory BNG metric user guide were not being met in relation to the loss of native hedgerow with trees associated with bank or ditch habitat.

6.4.40. In response to ExQ1.4.2 [PD-007], the applicant updated the oLEMP [REP1-064] to secure a commitment to ensure that the proposed length of hedgerow would be delivered, and the trading rules met. The BNG calculations were also updated [REP1-032] to reflect the change. With this change the trading rules were met.

Monitoring Measures

6.4.41. At ExQ1.4.3 [PD-007] the ExA asked the applicant for further information on how monitoring of BNG, ecology and landscape mitigation would be secured.

6.4.42. The applicant responded [REP1-071], highlighting that it would have a legal obligation to deliver and comply with requirements in the dDCO [REP1-006]. Further, the applicant stated that engagement was ongoing with LCC and NKDC to agree the securing mechanism for an ESG. The applicant explained that a final monitoring strategy would be agreed with both LCC and NKDC and it would ensure the results of the monitoring undertaken would be fed into ESG meetings and actions.

6.4.43. The applicant also provided an updated oLEMP [REP1-064] at D1 providing details on the performance criteria and monitoring regime for proposed planting as well as additional wording to state that each LEMP would include details of the location, number, species, size and planting density of any proposed planting. The applicant confirmed that the measures outlined in the oLEMP would be secured by R8 of the dDCO [REP1-006].

6.4.44. The ESG was discussed further at ISH3 [EV6-006] [EV6-007]. LCC explained that whilst the ESG was not considered to be essential to mitigate adverse impacts on ecology, it was considered to fulfil a very useful role. LCC confirmed that it was proposing that similar groups are established for most Nationally Significant Infrastructure Project (NSIP) proposals within the county. LCC considered that there may be opportunities to link the delivery mitigation across different NSIPs and thereby deliver more for biodiversity and that the ESG would provide a useful mechanism to achieve this.

6.4.45. The applicant set out the draft terms of reference for the ESG in the oLEMP [REP3-037] at D3. LCC [REP4-051] and NKDC [REP4-053] had concerns regarding the terms of reference, however by the close of examination, the applicant, LCC and NKDC had agreed the draft terms of reference for the ESG as recorded in the SoCGs [REP5-021] [REP5-022]. Matters relevant to biodiversity in the remit of the ESG include the following:

- To monitor the progress and implementation of the detailed LEMP(s).
- To provide oversight and scrutiny of the BNG monitoring undertaken by the applicant.

- To provide communication on landscape and biodiversity matters between the proposed development and relevant stakeholders.
- To consider and suggest remedial habitat management measures to be implemented when habitat creation and enhancement are not meeting the required condition.
- To undertake a compliance audit of the LEMP(s) against key performance indicators.
- To work with the applicant in meeting its commitments in the DEMP with regards to dealing with ecological habitats post the carrying out of the decommissioning works.

6.4.46. A funding commitment for the operation of the ESG was set out in a draft section (s)106 agreement [REP5-029]. Although the local authorities indicated that they were satisfied with the proposed funding commitment for the ESG, the s106 agreement had not been signed at the close of the examination as there was disagreement between the parties regarding a funding commitment for monitoring of BNG measures.

6.4.47. In response to ExQ2.4.3 [PD-010], NKDC set out its calculation of the costs for local authority monitoring of BNG [REP4-053]. NKDC stated its concern that the applicant was seeking that the provision of BNG is attributed weight in the planning balance without following through with a robust monitoring regime that included local authority monitoring to ensure that it would be successfully delivered on the ground.

6.4.48. The applicant provided a detailed response [REP5-028] as to why it does not agree that additional funding is required to enable NKDC to undertake its own specific BNG monitoring over and above what the applicant would undertake. The applicant stated that it already has monitoring obligations, as set out in the oLEMP [REP5-013], that the applicant is required to comply with the terms of the approved LEMP under R8 of the dDCO [REP5-004] and that failure to do so would constitute a criminal offence. Furthermore, the applicant provided examples of recent made solar DCOs (Heckington Fen, Oaklands, Byers Gill and East Yorkshire) where positive weight was placed on the benefit from the delivery of BNG in the planning balance and monitoring of BNG delivery was to be undertaken by the applicant.

OTHER BNG MATTERS

6.4.49. NKDC raised a number of other BNG concerns at D4 [REP4-053] in response to the updated BNG assessment provided by the applicant at D3 [REP3-021] as summarised below. The applicant's full response can be found in its response to D4 submissions [REP5-028].

Phasing

6.4.50. NKDC raised concern that BNG assessment did not clarify how the assessment has responded to the proposed development being phased. The applicant clarified that each individual LEMP, produced in line with the oLEMP [REP5-013], for the different phases or parts of the proposed development would detail how BNG will be secured during phasing of the proposed development.

Delay in starting habitat creation/ enhancement

6.4.51. NKDC raised concern that the BNG assessment metric is not populated with a weighting to reflect the number of years delay in starting habitat creation and enhancement. The applicant confirmed that the BNG assessment undertaken at the detailed design stage will account for the implications of either the delay to starting habitat creation/ enhancement, or alternatively the creation/ enhancement of habitats in advance of impacts.

Habitat enhancement – lowland calcareous grassland and other neutral grassland

6.4.52. NKDC raised concern that there was insufficient information to evidence that the proposed uplifts in distinctiveness of grassland types were realistic in relation to the proposed creation of 'lowland calcareous grassland' through enhancement of existing 'modified grasslands'. NKDC also raised concern that there was insufficient explanation as to how 67 habitat units of 'good' condition 'other neutral grassland' is likely to be achieved through enhancement.

6.4.53. In response, the applicant stated that it would undertake soil sampling prior to construction to collect sufficient data to understand nutrient levels and the feasibility of its approach. The applicant explained that, once this information is collected, the implementation measures required would be outlined in the final LEMPs which are secured by R8 of the dDCO [REP5-004]. This approach is set out in paragraph 5.3.7 of the oLEMP [REP5-013]. Furthermore, the applicant updated the BNG Assessment [REP5-010] to take a more precautionary approach by considering these areas under the creation tab, rather than the enhancement tab.

Use of 'fairly poor' condition for modified grassland

6.4.54. NKDC expressed concern with the non-standard use of 'fairly poor' condition for the proposed modified grassland in the solar array areas. The applicant explained that in between the arrays themselves and between the arrays and the security fence, it is likely that 'moderate' condition modified grassland can be achieved whereas it was assumed that only 'poor' condition would be achieved for areas underneath the arrays. As the layout and location of the arrays will not be finalised until detailed design stage, the applicant ran the outline BNG assessment calculations using 'fairly poor' for the condition of all modified grassland in the solar array areas.

EXA'S CONCLUSIONS ON BIODIVERSITY NET GAIN

6.4.55. Paragraph 4.6.1 of NPS EN-1 clarifies that BNG is not an obligation and so the ExA gives it no weight as a legal requirement with reference to paragraph 4.6.3 or the Environmental Act 2021. The ExA does, however, consider BNG in relation to policy for enhancements, for example paragraphs 4.6.6, 5.4.19, and 5.4.46 to 5.4.47 of NPS EN-1.

6.4.56. The ExA is satisfied that, based on the responses [REP5-028] to NKDC's concerns [REP4-053] and the updates made to the BNG Assessment

[REP5-010], an adequately precautionary approach has been taken by the applicant in relation to habitat classification for the BNG baseline and for the condition of proposed grassland habitats.

6.4.57. With regards to phasing and the consideration of delay in habitat creation, the ExA is satisfied with the applicant's approach as the approval of the individual LEMPs is secured by R8 of the dDCO [REP5-004] which requires that each LEMP must include details of how the plan proposals will contribute to the achievement of the minimum BNG provision for all of the proposed development.

6.4.58. In relation to the extent of BNG secured, the ExA considers this to have been assessed on an appropriate basis applying the DEFRA 4.0 metric, which is the current metric used to calculate biodiversity value for the purposes of BNG in accordance with paragraph 4.6.7 of NPS EN-1. The ExA finds it to be a benefit of the proposed development and consider that reasonable opportunities have been taken by the applicant to enhance biodiversity and find that there is compliance with paragraphs 4.6.6, 5.4.19, and 5.4.46 to 5.4.47 of NPS EN-1.

6.4.59. With regards to the ESG funding commitment, as the draft s106 was not signed at the end of the examination, the ExA cannot take it into account in its recommendation. The Secretary of State (SoS) may wish to ask the parties for an update on discussions. The ExA considers that the ESG funding commitment would be beneficial but would not materially change the ExA's overall conclusions set out below as the extent of BNG and mitigation and monitoring measures are adequately secured by the oLEMP [REP5-013] and the dDCO [REP5-004].

6.4.60. With regards to a separate funding commitment for the local authorities monitoring of BNG delivery, as stated above in paragraph 6.4.48, it's the applicant's position that this is not needed. It is the ExA's view that the applicant's position is reasonable given that delivery and monitoring of BNG by the applicant is set out in the oLEMP [REP5-013] and would be secured by R8 of the dDCO [REP5-004].

6.4.61. The ExA finds the proposed delivery of BNG to be a benefit of the proposed development that is secured through R8 of the recommended DCO (rDCO).

OTHER RELEVANT BIODIVERSITY MATTERS

6.4.62. This section considers the effect of the proposed development in relation to other relevant biodiversity matters that were considered in the examination. The ExA consider that these matters were satisfactorily resolved during the examination.

Bird Strike

6.4.63. The Ministry of Defence (MoD) [RR-278] raised concern that the proposed attenuation basin shown in field Tb2 on the Illustrative Layout Plans [AS-006] had the potential to attract and support bird species hazardous to air traffic. It

considered a requirement necessary to ensure that proposed waterbodies or wetland features would not introduce a bird strike hazard to aircraft.

6.4.64. In response to ExQ1.4.12 [PD-007] on this matter, the applicant [REP1-071] explained that the attenuation feature in field Tb2 would be designed as a dry depression (approximately 1m deep) which only collects water in the event of high rainfall and allows for infiltration to the ground. The applicant stated that it is not intended to be an open body of water or pond and therefore is not expected to attract birds.

6.4.65. In response to ExQ2.4.2 [PD-010], the MoD confirmed [REP4-056] that it had agreed with the applicant that the topic of aerodrome safeguarding in relation to bird strike hazard was agreed, including the finalisation of the wording for R10 (drainage) that identifies the need for the MoD to be consulted on the submission of detailed plans that relate to drainage in the aerodrome safeguarding zone. Therefore, the ExA is content that this matter has been resolved.

Impact of Panels on Bats, Birds and Insects

6.4.66. Numerous interested parties (IPs) [too many to list] raised concerns regarding various species mistaking areas of solar panels for large expanses of water. For example, [RR-264] raised concern that the panels can kill insects and other small creatures as a result of the solar radiation and that migrating wading birds have been known to crash into the panels. An IP [RR-417] also raised concern that populations of bats, owls, red kites and other raptors would be deterred from using the land to hunt, that aquatic insects would lay their eggs on the panels rather than in the local watercourses.

6.4.67. The applicant made the following points in response to ExQ1.4.5 and ExQ1.4.6 [PD-007] on these matters at D1 [REP1-071]:

- Modern solar PV panels are designed to absorb as much light as possible and are typically coated with an anti-reflective film to help reduce polarized reflected light that may affect insects and other animals such as birds.
- There are no extensive aquatic habitats likely to support a diverse assemblage of aquatic insects within or adjacent to the proposed development and no designated sites identified for their aquatic invertebrates are located nearby.
- 6m buffers would be maintained from existing watercourses and an appropriate buffer from the ponds present to help reduce any such effect (as secured in the Design Commitments [REP3-030]).
- Wintering and breeding bird surveys [APP-083] [APP-084] carried out within the order limits and surrounding area did not find significant numbers of waders of wildfowl birds using the site, nor does the site sit on a migratory route or flight path between wetland sites. Therefore, the applicant confirmed that no significant risk to waterbirds was anticipated.
- Much of the research shows that effects of solar farms on bats appears to vary depending on bat species, land use, land management and possibly other variables depending on different sites. As there are insufficient

published studies on the effects of solar farms on bats, there is therefore insufficient empirical research data to inform specific guidance or actions.

6.4.68. In response to the last point in particular, an IP [REP2-027] raised concern that the proposed development should not be allowed to proceed on a best guess approach to mitigating it's impact on bats and that the applicant's suggestion to monitor bat species activity for the first 10 years post construction would be too late to respond to the impacts.

6.4.69. In response, the applicant stated [REP3-074] that the proposed development has embedded mitigation measures designed to be beneficial for foraging and commuting bats, including the following:

- Buffer zones and improvement measures to ensure boundary habitats are maintained and improved in area and diversity.
- New tree and hedgerow planting, wildflower grassland creation, field margin improvements and legume-rich grassland treatments underneath solar PV panels, providing an overall BNG during the operational phase.
- The indirect effect of reduced herbicide and pesticide use on land not being used for agriculture.

6.4.70. The IP provided further detailed comments at D4 [REP4-061] setting out why they considered that the applicant's approach to impacts on bats has not been properly considered, particularly in relation to noise impacts on bats, and that the applicant's survey methodology was not sufficient.

6.4.71. The applicant reiterated [REP5-028] that its approach to surveying and assessing the impacts to bats had been undertaken with regard to the relevant legislation, planning policy and guidance. The applicant also noted that the approach and survey methodology has also been discussed and agreed with the local authorities and NE, as detailed in the final signed SoCGs, with NKDC [REP5-022], LCC [REP5-021] and NE [REP4-043].

6.4.72. The ExA is satisfied that the applicant has correctly assessed the impacts on species of birds, bats and insects relevant to the proposed development site. Noting that the survey methodology was agreed with the local authorities and NE, the ExA is content that the applicant's approach to surveying and assessment of impacts is acceptable.

Culverting of Watercourses

6.4.73. At ExQ1.4.8 [PD-007] the applicant was asked to demonstrate that no reasonable alternatives exist to the proposed culverting of six ditches in accordance with paragraphs 2.10.87 and 2.10.88 of NPS EN-3.

6.4.74. In response, the applicant confirmed [REP1-071] that following further review, there was no longer a need for new drainage ditch crossings. Therefore, the ExA is content that that this matter has been resolved.

Woodland

6.4.75. In its RR, the Forestry Commission [RR-131] advised that it would ideally like to see woodland creation carried out in 5ha blocks or that connecting planting with existing woodlands, should create blocks of at least 5ha.

6.4.76. The applicant responded [REP1-071] that the Forestry Commission's advice can be accommodated. The applicant confirmed that the majority (13.4ha) of new tree planting within the order limits comprises 5ha blocks of woodland or larger. In some instances, smaller blocks (2.6ha) are required to provide specific mitigation where it is not considered appropriate to create larger blocks on the balance with other design considerations. The ExA is content that this matter has been resolved.

Cumulative Effects

6.4.77. The ExA is content that there would be no inter-project cumulative effects on any common receptors of the proposed development and any other existing, consented or proposed developments considered in the ES.

6.5. EXA'S CONCLUSIONS ON BIODIVERSITY

6.5.1. The ExA has carefully considered the views of IPs, the evidence presented and the responses received, including the view of the relevant Statutory Nature Conservation Body, NE. The ExA finds that the applicant has addressed those concerns as far as possible in line with relevant legislation, the policy within NPS EN-1 and EN-3 and other policy requirements referenced through the relevant LIRs as important and relevant matters.

6.5.2. While there would be adverse effects on some habitats and species arising from the loss of habitats during construction and disturbance to habitats during construction and decommissioning, the ExA is content that there would be no significant adverse effects on any habitats or species. The extent of proposed hedgerow and tree planting would result in permanent significant beneficial effects to a receptor of local importance and once habitats are established there would also be beneficial effects for ground nesting and wintering birds in the operational phase.

6.5.3. The ExA finds the proposed delivery of BNG to be a benefit of the proposed development that is secured through R8 of the recommended DCO (rDCO). The ExA considers that reasonable opportunities have been taken by the applicant to enhance biodiversity.

6.5.4. Mitigation, enhancement and monitoring measures are set out in the Design Commitments [REP3-030], oCEMP [REP4-025], oLEMP [REP5-013] and oDEMP [REP4-035] and would be adequately secured through requirements R5, R8, R12 and R19 respectively of the rDCO. The ExA is content that the applicant has applied appropriate avoidance, mitigation and enhancement measures as an integral part of the proposed development in accordance with paragraph 5.4.35 of NPS EN-1.

6.5.5. The significant beneficial effects to biodiversity receptors and the resultant proposed delivery of BNG well in excess of 10% leads the ExA to ascribe moderate weight in favour of making the order in relation to biodiversity.

6.5.6. The ExA's conclusions in relation to the Habitat Regulations Assessment are set out in Chapter 15 of this report.

7. CULTURAL HERITAGE

7.1. INTRODUCTION

7.1.1. This chapter considers the effect of the proposed development in relation to archaeology and above ground heritage assets.

7.2. POLICY BACKGROUND

General Considerations

NPS EN-1

5.9.9	Likely significant heritage impacts and the mitigation hierarchy.
5.9.17	Loss of whole or part of a heritage asset's significance.
5.9.18	Written scheme of investigation.
5.9.22	Significance of any heritage asset and the setting.
5.9.25	Sustaining and enhancing the significance of heritage assets.
5.9.28	Weight given to the desirability of preserving heritage assets.

NPS EN-3

2.10.104	Large-scale solar farms and harm to the significance of heritage assets.
2.10.158	Impacts and the length of time of consent.

Designated Heritage Assets

NPS EN-1

5.9.27	Weight given to the conservation of a designated heritage asset.
5.9.28	Harm or loss of significance of a designated heritage asset.
5.9.29	Substantial harm or loss of significance: grade II listed building.
5.9.30	Substantial harm or loss of significance: highest significance assets.
5.9.31	Substantial harm: designated heritage asset and refusal of consent.
5.9.32	Less than substantial harm to significance of designated heritage assets.
5.9.36	Preserving the setting of designated heritage assets.

NPS EN-3

2.3.8	Weighing public benefits against any loss or harm.

Non-Designated Heritage Assets and Archaeology

NPS EN-1

5.9.6	Non-designated heritage assets equivalent to scheduled monuments.
5.9.21	Undiscovered heritage assets with archaeological interest.
5.9.33	Weighing for non-designated heritage assets.

NPS EN-3

2.10.113	Assessment of heritage assets with archaeological interest.
2.10.137	Micro-siting during the construction stage.

Other Policies and Legislation

7.2.1. The Planning (Listed Buildings and Conservation Areas) Act 1990 and Infrastructure Planning (Decisions) Regulations 2010 deal with matters including preserving listed buildings and their setting, preserving or enhancing conservation areas, and preserving scheduled monuments or their setting.

7.2.2. The Local Impact Reports (LIR) provided by Lincolnshire County Council (LCC) [REP1-088] and North Kesteven District Council (NKDC) [REP1-102] identified the following relevant local policies:

Central Lincolnshire Local Plan 2023-2043 (CLLP)

- Policy S47 - The Historic Environment.

Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies 2016 (LMWLP)

- Policy DM4: Historic Environment.

Scopwick and Kirkby Green Neighbourhood Plan 2021-2036 (SKGNP)

- Policy 10 - Protecting Heritage Assets.

7.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

7.3.1. The applicant's assessment of matters relating to cultural heritage is largely contained within Chapter 9 of the ES [APP-049] and accompanying appendices [APP-097 to APP-106].

7.3.2. A study area of 5 kilometres (km) buffer from the order limits was used for designated heritage assets to identify those with potential for effects resulting from changes in their setting. A 2km buffer was used for non-designated assets within which the archaeological and historical development of the proposed development site and surrounding area has been considered to

inform the baseline and to identify non-designated heritage assets with potential for effects resulting from changes in their setting.

7.3.3. The applicant's methodology for the assessment of effects on cultural heritage is set out in Section 9.4 of ES Chapter 9 [APP-049].

7.3.4. The applicant's justification for scoping matters in/ out of the assessment can be found in tables 9.2 and 9.3 of ES Chapter 9 [APP-049]. The receptors and matters that were scoped into the applicant's assessment are listed below.

- Physical impacts to Milepost 20 metres (m) south of Ashby Lodge Farm, Grade II Listed Building.
- Physical impacts to Avro Lancaster crash site.
- Physical impacts to Hawker Hurricane crash site.
- Effects to the setting of the scheduled remains of former village of Brauncewell.
- Effects to the setting of currently unknown below-ground archaeological remains within the site.
- Effects of dust and noise/ vibration on heritage assets within or adjacent to construction, operation (including maintenance) and decommissioning working areas/ access routes.
- Physical impacts to areas of high density archaeological remains within the ground mounted solar photovoltaic (PV) generating station.
- Physical impacts to areas of high density archaeological remains within cable route areas.
- Physical impacts to areas of low density archaeological remains within the ground mounted solar PV generating station and cable route areas.

7.3.5. The Archaeological Desk Based Assessment and Stage 1 Setting Assessment (ADBA) [AS-014] identified one known designated heritage asset recorded by the National Heritage List for England (NHLE) of archaeological interest within the order limits. This is the scheduled monument of Brauncewell medieval village. There are 96 other known non-designated heritage assets of archaeological interest recorded by the Historic Environment Records (HER) within the order limits including assets that date to the Prehistoric, Bronze Age, Romano-British, Medieval, Post-Medieval, and Modern periods. In addition to these recorded archaeological assets, there are four parish boundaries which have been identified from historic mapping and a further nine potentially important hedgerows have been identified within the order limits.

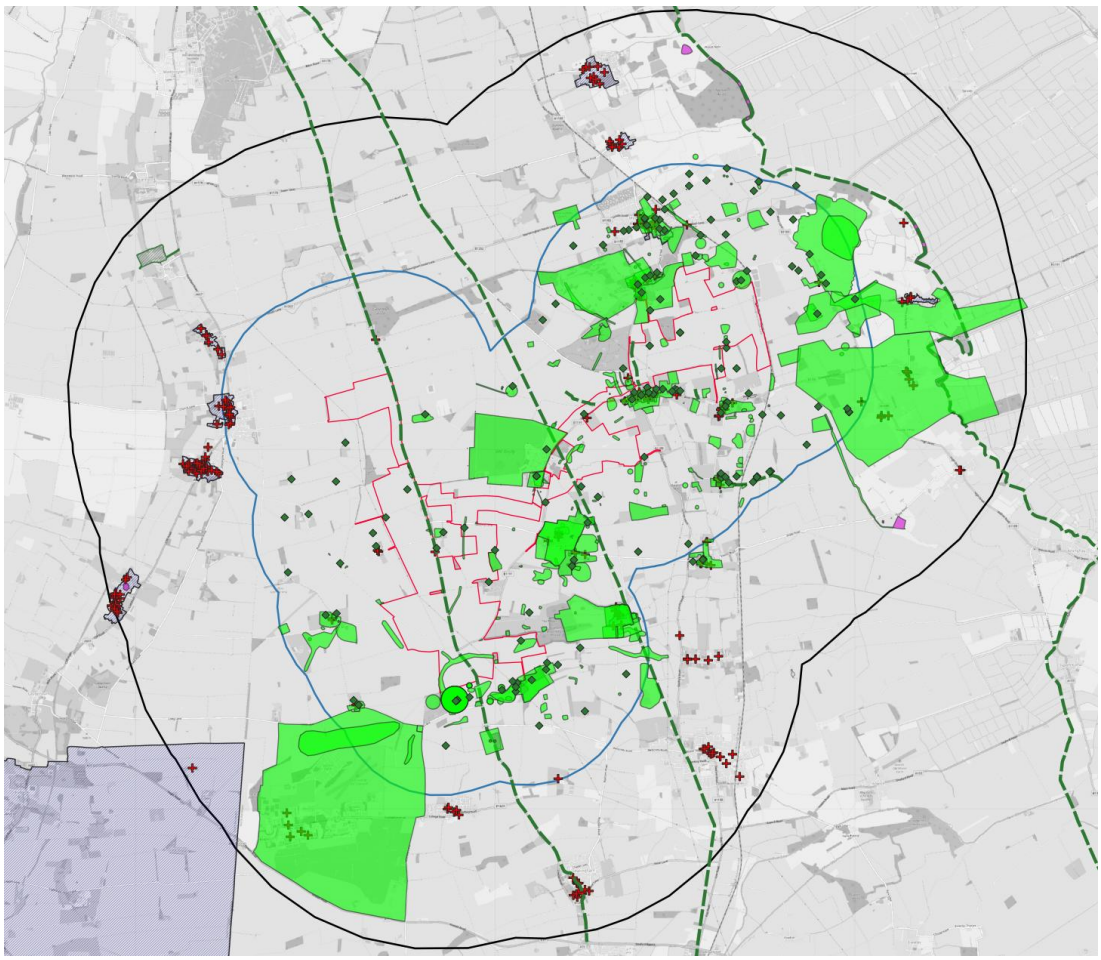
7.3.6. In relation to unknown below-ground archaeological remains, the applicant's assessment indicates that there is potential for the following types of remains:

- Negligible to low potential for Prehistoric (Palaeolithic, Mesolithic, Neolithic) remains.
- Medium potential for Bronze Age remains.
- Low potential for Iron Age remains.
- Medium potential for Roman remains.

- Low potential for Early Medieval to Medieval remains.
- Medium-high potential for Post-Medieval remains.
- Medium potential for Modern remains (however only around the area of RAF Digby).

7.3.7. The ES states [APP-049] that in total there are 3 designated heritage assets, including the one identified in the ADBA, within the order limits. Beyond the order limits but within the 5km study area for designated heritage assets, there are 16 scheduled monuments, and 11 conservation areas. There are also 263 listed buildings. The listed buildings comprise 13 Grade I, 13 Grade II*, and 237 Grade II. These are all detailed in Annex 1 of the ADBA [AS-014].

Figure 4: Heritage Assets in the Study Area



7.3.8. There are 315 non-designated assets within the order limits and study area (see Figure 4 above, extract from [APP-065]), these are detailed in Annex 1 of the ADBA [AS-014]. There are also 17 buildings identified in the neighbourhood plan retained from the 1987 Local List which are not included in the HER and two additional structures put forward in the neighbourhood plan for inclusion as non-designated heritage assets.

CONSTRUCTION PHASE

Archaeology

7.3.9. The cable routes between Springwell Central and Springwell East and between Springwell Central and Springwell West would pass through areas of high-density archaeology and would damage any remains within the working area for the cable routes. This damage could result in the loss of some of the archaeological features, the loss of physical evidence of their relationships, phasing, and damage to other features.

7.3.10. The applicant [APP-049] identifies a possible rectilinear double ditched enclosure and possible area of archaeological remains in its geophysical survey west of the A15. The cable corridor to the National Grid Navenby Substation may cross through this asset depending on its final route. If avoidance is not possible, the magnitude of impact would be minor adverse, resulting in an effect of up to slight adverse (not significant in environmental impact assessment (EIA) terms).

7.3.11. The applicant [APP-049] identifies a slight risk that further currently unknown archaeological remains may be present within the order limits. However, such remains are likely to be small, discrete features not detectable by geophysical survey. The applicant notes that a programme of further archaeological investigation to avoid significant effects and to offset any residual effects is secured by requirement (R) 12 of the draft Development Consent Order (dDCO) [APP-012]. Therefore, the applicant concluded there would be a slight (not significant) adverse effect on currently unknown (non-designated) archaeological remains.

7.3.12. Archaeological mitigation measures are set out within the applicant's outline Written Scheme of Investigation (oWSI) [APP-0148] including preservation in situ through the use of concrete feet or similar non-intrusive panel supports and routing of cables between arrays and inverter transformer stations (ITS) above ground. Where preservation in situ is not necessary or is not feasible, targeted areas of archaeological excavation would form the mitigation. The mitigation measures would be secured by the outline Construction Environmental Management Plan (oCEMP) [APP-0140] and R12 of the dDCO [APP-012].

Setting of Heritage Assets

7.3.13. The applicant states (Chapter 9 of the ES [APP-049]) that changes to the setting of designated and non-designated heritage assets have been reduced through amendments to the proposed development layout including exclusion of solar PV panels from areas which contribute to the significance of heritage assets and proposed additional vegetation screening. A description of how the layout of the proposed development has changed through the design process can be seen in the Design Approach Document (DAD) [APP-0137].

7.3.14. In response to advice issued by the Planning Inspectorate under section 51 of the Planning Act 2008 on 18 December 2024 [PD-002], the applicant

provided a Heritage Harm Statement as Appendix 5 of the Planning Statement [AS-018] to identify which of the designated heritage assets would experience less than substantial harm to their significance as a result of the proposed development.

7.3.15. The Heritage Harm Statement identified 24 designated heritage assets that would experience less than substantial harm including one scheduled monument (Brauncewell medieval village), 3 conservation areas, one grade II* listed building, and 19 grade II listed buildings. For all the assets the applicant assessed that the harm would be at the lower end of less than substantial. For most of the assets the impact would be due to the proposed development introducing infrastructure elements in the setting of the asset but in the case of the grade II* listed Church of St Oswald, the impact to the setting of the asset is due to construction vehicle movement resulting in short term changes to the setting.

OPERATIONAL PHASE

Archaeology

7.3.16. The applicant considers that there would be a moderate (significant) beneficial effect on the WWII aeroplane crash sites as these sites would be preserved from further disturbance by ploughing during the operational phase. The applicant notes in its oWSI [APP-0148] that this is recognised within NPS EN-3 (paragraph 2.10.110): “solar PV developments may have a positive effect, for example archaeological assets may be protected by a solar PV farm as the site is removed from regular ploughing”.

7.3.17. Notwithstanding the less than substantial harm that the Brauncewell medieval village scheduled monument would experience to its setting, the applicant assessed that this asset would also experience a moderate (significant) beneficial impact due to the creation of a permissive path between the proposed development and the scheduled monument to increase public access and allow more people to appreciate the heritage significance of the earthwork remains.

7.3.18. In terms of archaeological mitigation in the operational phase, the known assets within the order limits would be noted in the outline Operational Environmental Management Plan (oOEMP) [APP-0143] in order to avoid potential unintended impacts during maintenance activities. The oOEMP would be secured by R13 of the dDCO [APP-012].

Setting of Heritage Assets

7.3.19. Refer to paragraphs 7.3.13 to 7.3.15 above regarding the harm that would be experienced by designated heritage assets. Taking into account any embedded mitigation planting, the less than substantial harm caused by the presence of the proposed development in proximity to these assets would remain through the operational phase with the exception of the grade II* listed Church of St Oswald as set out above.

DECOMISSIONING PHASE

Archaeology

7.3.20. The applicant concludes that, following implementation of mitigation measures, there would not be any significant effects to archaeological assets in the decommissioning phase.

7.3.21. In terms of archaeological mitigation in the decommissioning phase, the known assets within the order limits would be noted in the outline Decommissioning Environmental Management Plan (oDEMP) [APP-0146] in order to avoid potential unintended impacts during decommissioning. The oDEMP would be secured by R19 of the dDCO [APP-012].

Setting of Heritage Assets

7.3.22. As above, the less than substantial harm to the setting of designated heritage assets would remain in the decommissioning phase. Any harm to the settings of assets would be reversed once the proposed development was removed/ decommissioned.

CUMULATIVE EFFECTS

7.3.23. The applicant explains in ES Chapter 16 [APP-056] that, whilst no inter-project likely significant cumulative effects are predicted, the following assets would experience minor impact on their significance through changes in their settings:

- Wright's Farmhouse (grade II listed) as a result of the proposed development in combination with the proposed anaerobic digestion plant and associated infrastructure (EIA/37/22) on the former RAF Metheringham site.
- Green Man Farmhouse (grade II listed) as a result of the proposed development in combination with the proposed Navenby Heath battery storage development north of Green Man Road (23/0390/EIASCO).
- Scopwick Conservation Area and listed buildings within it (grade II listed farmyard north of the Firs) as a result of the proposed development in combination with the Heath Road Scopwick residential development (23/1283/FUL).

7.3.24. The applicant concludes that no further mitigation is required and anticipates that archaeological mitigation measures if required for the Heath Road development would be secured by condition on its Town and Country Planning Act 1990 application.

7.4. ISSUES CONSIDERED DURING THE EXAMINATION

ARCHAEOLOGY

Extent of Archaeological Investigation

7.4.1. In its relevant representations (RR) LCC [RR-233] stated that it had significant concerns over the amount of trial trenching undertaken. Historic

England (HE) [RR-159] stated that the applicant's approach to trial trenching raised concern that there is potential confirmation bias whereby areas assessed from geophysical survey as low potential had not been tested. HE also raised concern that risk appears to have been pushed later into the process where the applicant's capacity to respond through adaptive design or excavation may reduce.

7.4.2. With regards to securing further archaeological investigation, HE stated [RR-159] that in cases where additional assessment stage trial trenching is proposed to be undertaken after development consent is granted, there needs to be a mechanism whereby the results of that work have a material bearing upon the subsequent phase of archaeological mitigation. HE made reference to the relevant requirement within the made Development Consent Orders (DCO) for Mallard Pass, West Burton and Cottam Solar projects as an example of adequately securing additional trial trenching to be undertaken post-consent.

7.4.3. The matter was raised for discussion at ISH1 [EV4-010] [EV4-011]. LCC reiterated the need for further trial trenching but were happy for it to be site specific and targeted trial trenching. The applicant confirmed that it had drafted revised wording for R11 (subsequently submitted at D1 [REP1-006]) which brings it more in line with that of the made Mallard Pass DCO. LCC commented that they were still not satisfied with the wording as it did not include all works that could have an impact on archaeological remains. LCC expanded on its concerns at D2 [REP2-025] stating that R11 should also include Work Nos. 8 and 9.

7.4.4. At ISH1 [EV4-010] [EV4-011] HE suggested that the applicant should make improvements to the ADBA so as to integrate the analytical work they had done with the trial trenching and the magnetometer survey more fully. HE stated that taking a more landscape archaeological approach would put the applicant in a better place to deploy further archaeological work post determination.

7.4.5. The matter was discussed further at ISH2 [EV5-006] [EV5-007]. HE and LCC confirmed that they were generally satisfied with progress on the oWSI and ADBA (subsequently submitted at D3 by the applicant [REP3-049] and [REP3-023]). LCC stated there were some matters still outstanding with the content of these documents but were satisfied that these matters could be resolved in detailed design stage. In response to ExQ2.7.3, HE [REP4-055] confirmed that all concerns had been addressed and LCC [REP4-051] confirmed that it was confident that remaining matters of debate, namely the location of the remaining evaluation trenches, yet to be agreed could be appropriately dealt with through the approval of the WSI.

7.4.6. The applicant provided an updated dDCO at D3 [REP3-004] including an update to R11 to include Work Nos. 8 and 9. LCC had previously raised concern at ISH2 [EV5-006] [EV5-007] regarding the use of the phrase 'substantially in accordance with' in the wording of R11 but confirmed at D3 [REP3-079] that it was content with the proposed wording in the applicant's dDCO.

7.4.7. At the end of the examination there were no outstanding matters between HE or LCC and the applicant, as confirmed in the signed Statements of Common Ground (SoCG) [REP5-021] [REP5-023].

Impact on Military Remains

7.4.8. At ExQ1.7.4 [PD-007] the Ministry of Defence (MoD) were asked for comment on the suitability of the works proposed in the areas of the WWII crash sites. The MoD responded [REP1-091] that there would be no difficulties in further licences under the Protection of Military Remains Act 1986 being issued for the two aircraft at the proposed development site. No further issues were raised in the examination in relation to military remains.

BUILT HERITAGE

DESIGNATED HERITAGE ASSETS

7.4.9. LCC raised concern in its RR [RR-233] that the applicant's assessment in the ES [APP-049] scoped out a number of conservation areas and listed buildings within the 1km study area. NKDC raised similar concerns [RR-305].

7.4.10. In response to ExQ1.7.2 [PD-007], NKDC confirmed [REP1-103] that the applicant had provided additional information on a selected number of above ground heritage assets in the SoCG with the council [REP1-077] such that there was agreement that the following designated assets should be scoped out of the assessment:

- Temple Farmhouse (Grade II listed building).
- Home Farmhouse (Grade II listed building).
- Farmyard to the north of The Firs (Grade II listed building).

7.4.11. On the other hand, NKDC confirmed that it was still of the view that the following assets should be scoped into the ES:

- Thompsons Bottom Farmhouse and outbuildings (Grade II listed buildings)
- Scopwick Mill (Grade II listed building)

7.4.12. In its LIR [REP1-088], LCC explained that even though both HE and LCC were broadly content with the design revisions to date, it still considered it premature to exclude the conservation areas of Scopwick and Blankney from further assessment.

7.4.13. At D3 an Interested Party (IP) [REP3-083] submitted an independent report raising concerns regarding the impact of the proposed development on the Temple Bruer Preceptory Church Tower/ Remains of Preceptory Church Grade I listed building and Scheduled Monument.

7.4.14. These assets were considered further in the examination as set out below.

Blankney and Scopwick Conservation Areas

7.4.15. LCC stated in its LIR [REP1-088] that the setting of Blankney and Scopwick conservation areas are influenced not only by direct views but by their wider landscape context and the kinetic experience of travelling to and between them. LCC were concerned that the sense of place and the historical and cultural context they provide for the communities they serve could be diminished by the proposed development.

7.4.16. The applicant's position [AS-014] on both the Blankney and Scopwick conservation areas was that there would be a minor effect on character and appearance as a result of impacts on the setting of the conservation areas from the proposed development which would not result in significant effects and therefore can be scoped out of the ES.

7.4.17. The matter was raised for discussion at ISH2 [EV5-006] [EV5-007]. LCC were of the opinion that the ES did not accord with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), regulation 14 or NPS EN-1 insofar as it did not include an assessment of the significance of the conservation areas, the contribution made by their setting to their significance and the potential impact of the proposed development.

7.4.18. At D3, the applicant provided an updated ADBA [REP3-023] which included further information of the impact of the proposed development on the conservation areas in annex 14. The assessment concludes that there would be a low level of less than substantial harm to these designated heritage assets.

7.4.19. In response to ExQ2.7.1 [REP4-049] the applicant stated that the information provided in the ES does satisfy the statutory requirements because the stage 1 setting assessment within the ADBA [REP3-023] found that the level of harm (magnitude of impact) to the heritage assets would not result in a significant effect. The applicant explained that these assets were therefore scoped out by the applicant in line with the EIA Regulations which require reporting of likely significant effects. The applicant's position was that the assessment provides sufficient information to allow the ExA and the Secretary of State (SoS) to reach a reasoned conclusion on the potential impact of the proposed development on these assets in accordance with the EIA Regulations and NPS EN-1.

7.4.20. At D4, NKDC confirmed [REP4-053] that it was satisfied that there has been further scrutiny of the effects upon the conservation areas at Scopwick and Blankley and had no further comment. The final signed SoCG between the applicant and LCC [REP5-021] stated that LCC and HE are agreed that the effects on Scopwick and Blankney conservation areas have been greatly reduced by the changes to the order limits and masterplan since the initial consultation. It also stated that both parties agree that the impacts on Scopwick and Blankney conservation areas would be slight and would not result in significant effects.

7.4.21. The applicant's Heritage Harm Statement [REP4-023] records that there would be less than substantial harm to these assets which should be weighed against the public benefits of the proposal.

Scopwick Mill and Thompsons Bottom Farm

7.4.22. In response to ExQ1.7.2 [PD-007], NKDC stated [REP1-103] that whilst there has been mitigation to move the solar array from Scopwick Mill, there would still be a less than substantial harm on the site due to the landscape impact of the solar array on views to the south from the mill. At ISH2 [EV5-006] [EV5-007] NKDC maintained that the level of impact on Scopwick Mill would be significant enough to warrant further assessment in the ES.

7.4.23. With regards to Thompsons Bottom Farm, NKDC identified [REP1-103] that the solar array would be located in close proximity to the eastern elevations of the farm complex and has no bespoke mitigation considered. Further, NKDC highlighted that currently the approach to Thompon's Bottom farm from the east is one of open agricultural fields and views, this would be replaced with a large solar array, with no proposed mitigation, demonstrating an acute impact which needs further assessment.

7.4.24. At ISH2 [EV5-006] [EV5-007] NKDC reiterated its concerns that the approach to Thompsons Bottom Farm from the A15 along Warren Lane is an important part of its setting and this approach would be changed significantly by the presence of the proposed development.

7.4.25. As with the conservation areas discussed above, LCC expressed concern at ISH2 [EV5-006] [EV5-007] that the ES did not accord with the EIA Regulations or NPS EN-1 insofar as it did not include an assessment of the significance of the assets, the contribution made by their setting to their significance and the potential impact of the proposed development.

7.4.26. The applicant provided further information within annex 14 of the updated ADBA at D4 [REP4-017] which included a description of the significance of these assets, the contribution made by their setting to their significance and the potential impact of the proposed development.

7.4.27. In relation to the eastern approach to Thompsons Bottom Farm along Warren Lane, the applicant stated that solar array would be present either side of the road but would be screened by proposed planting. The applicant acknowledged that the character of the approach would be more enclosed as result of the planting but noted that the remains of a dry-stone wall to the north suggest that the view was likely not always as open as it is presently.

7.4.28. The applicant's position was that that the presence of the proposed development within the setting of both Scopwick Mill and Thompsons Bottom Farm, following embedded mitigation, would result in effects of slight adverse significance which would not be significant in EIA terms. The applicant concluded that there would be a low level of less than substantial harm to both these designated heritage assets.

7.4.29. With regard to Scopwick Mill, the final signed SoCGs with NKDC [REP5-022] and LCC [REP5-021] recorded that the councils agreed with the conclusions of the assessment in annex 14 of the ADBA [REP4-017] [REP4-019] regarding the magnitude of impact, level of less than substantial harm and significance of effect on these designated heritage assets.

7.4.30. However, with regards to Thompsons Bottom Farm, the final SoCGs with NKDC [REP5-022] and LCC [REP5-021] recorded that the councils disagreed with the applicant and considered that the level of harm to the significance of the buildings at Thompson's Bottom Farm would result in a significant effect.

7.4.31. The applicant's Heritage Harm Statement [REP4-023] records that there would be less than substantial harm to these assets which should be weighed against the public benefits of the proposal.

Temple Bruer Preceptory Church Tower and Remains of Preceptory Church

7.4.32. The independent report submitted by an IP at D3 regarding the Temple Bruer Preceptory Church Tower/ Remains of Preceptory Church Grade I Listed Building and Scheduled Monument [REP3-083] stated that the former Knights Templar Estate boundary forms the setting of these heritage assets and contributes to their significance. The report also identifies kinetic views of the assets from Warren Lane demonstrating intervisibility between them and the proposed development.

7.4.33. In response to ExQ2.7.5 [PD-010], the applicant acknowledged [REP4-049] that the former estate of the Knights Templar Preceptory does contribute to the heritage assets' significance and forms part of the agricultural setting in which they are experienced. However, the applicant stated that the impact on the significance of these heritage assets overall would be negligible, as there would be no physical impact on the designated heritage assets, and their setting has already been altered by modern development in their immediate surroundings.

7.4.34. In response to ExQ2.7.5, LCC [REP4-051], NKDC [REP4-053] and HE [REP4-055] all confirmed that the content of the independent report did not lead to any change in their position that these assets can remain scoped out of the ES assessment.

7.4.35. The applicant's Heritage Harm Statement [REP4-023] records that there would be less than substantial harm to these assets which should be weighed against the public benefits of the proposal.

NON-DESIGNATED HERITAGE ASSETS

7.4.36. In its LIR, LCC [REP1-088] raised concern that the applicant's assessment had overlooked how the historic farmsteads within the order limits and wider study area are experienced as a group, treating them in isolation rather than as part of a cohesive historic landscape. LCC stated that the introduction of large-scale infrastructure risks severing the connections between

farmsteads, eroding both the physical setting and the intangible heritage that links these assets to Lincolnshire's agricultural past.

7.4.37. In response to LCC's LIR, the applicant stated [REP2-023] that the non-designated heritage assets referred to are all 19th century partially extant farmsteads, there would be no physical impacts to any of these buildings, the applicant acknowledged that effects would occur through changes to their setting, but that these effects would not be significant.

7.4.38. The matter was discussed further at ISH2 [EV5-006] [EV5-007] where LCC reiterated its concern that the collective value of these farmsteads isn't being considered as part of the assessment process. The applicant updated the ADBA [REP3-024] to provide further detail on the collective value of non-designated farmsteads at annex 14 including a consideration of the guidance contained in the Greater Lincolnshire Farmstead Character Statement as requested by the ExA at ISH2. The applicant acknowledged there would be a significant visual change in the setting of the farmsteads but states that there would be no boundary loss or alteration to the pattern of fields which form the setting of the farmsteads. Therefore, the applicant stated that the farmsteads would continue to be appreciated as surviving elements of a 19th century landscape within an altered setting.

7.4.39. At D4 LCC [REP4-051] accepted the minor adverse (not significant in EIA terms) outcome of the applicant's group value methodology for assessing the group value of non-designated farmsteads. NKDC [REP4-053] stated that it was satisfied that the farmsteads have been well considered, including consideration of the Greater Lincolnshire Farmsteads Character Statement. Overall, NKDC considered that there had been a greater consideration of setting and the impact that this would have on the special interest of the farmsteads as a group.

7.5. EXA'S CONCLUSIONS ON CULTURAL HERITAGE

Archaeology

7.5.1. As set out above, all concerns relating to the extent of archaeological investigation that were raised by the local authorities and HE had been resolved to the satisfaction of all parties by the end of the examination.

7.5.2. R11 of the dDCO [REP5-004] ensures that works within the proposed development are carried out in accordance with a WSI which is substantially in accordance with the oWSI [REP4-038]. R11 also ensures that where further archaeological investigation is required by a WSI and updates to the draft archaeological mitigation strategy are subsequently required due to the findings of this investigation, an updated archaeological mitigation strategy would be submitted to the relevant planning authority for approval.

7.5.3. The oCEMP [REP4-025], oOEMP [REP4-032] and oDEMP [REP4-035] also contain mitigation measures in relation to construction, operational maintenance and decommissioning activities. These control documents are secured through requirements R12, R13 and R19 respectively.

7.5.4. The ExA considers that the above control documents and requirements in the dDCO [REP5-004] provide adequate control and mitigation for archaeological purposes.

Built Heritage

7.5.5. Whilst it is acknowledged that there would be less than substantial harm to Blankney conservation area, Scopwick conservation area and Scopwick Mill, the ExA agrees with the applicant and local authorities that there would not be significant effects in EIA terms on these assets.

7.5.6. Regarding Thompsons Bottom Farm, the ExA viewed the setting of this asset, including the approach from the A15 on Warren Lane, on the accompanied site inspection [EV9-001]. The ExA considers that the applicant's position is reasonable and therefore agrees that effects on the setting of this asset would not be significant in EIA terms but less than substantial harm would occur to this asset.

7.5.7. Due to the offset from the proposed development and the fact that the setting of the former Knights Templar Estate has already been altered by modern development, the ExA finds that there would not be significant adverse effect on the Temple Bruer Preceptory Church Tower grade I listed building and scheduled monument. There would however be less than substantial harm to this asset.

7.5.8. The ExA note that there was agreement between the applicant and local authorities regarding the assessment of non-designated historic farmsteads. The ExA is satisfied that the collective value of these assets has been appropriately considered by the applicant and that the conclusion reached that the effect would be minor adverse (not significant) is reasonable.

OVERALL CONCLUSION

7.5.9. It is the ExA's view that the applicant has provided an adequate description of the significance of the heritage assets that would be affected by the proposed development and the contribution of their setting to that significance to allow the SoS to reach a reasoned conclusion on the potential impact of the proposed development in accordance with the EIA Regulations and NPS EN-1. The ExA therefore considers that the application meets the requirements of relevant legislation and policy.

7.5.10. The ExA finds that there would be minor adverse effects, which are not significant in EIA terms, on the group value of non-designated farmsteads as a result of changes to the setting of these assets.

7.5.11. The ExA agrees with the applicant that, notwithstanding mitigation where possible, harm would occur to 2 scheduled monuments, one scheduled monument/ grade I listed building, 3 conservation areas, one grade II* listed building, and 19 grade II listed buildings due to effects on the settings of these assets as set out in the applicants Heritage Harm Statement [REP4-023].

7.5.12. The harm to all the designated heritage assets identified above would be less than substantial and the ExA is satisfied that the proposed development would not result in substantial harm to any designated or non-designated heritage assets.

7.5.13. Within the range of less than substantial, harm would be at the lower end of the scale to all identified assets. Nevertheless, where there is harm, the SoS must give great weight to the asset's conservation in accordance with paragraph 5.9.27 of NPS EN-1.

7.5.14. The ExA affords any harm to heritage assets great weight, but this must be weighed against the public benefits of the proposed development in accordance with paragraph 5.9.32 of NPS EN-1. This is done in the planning balance in Chapter 16 of this report.

8. LAND, SOIL AND GROUNDWATER

8.1. INTRODUCTION

8.1.1. This chapter considers the effect of the proposed development on land, soil and groundwater.

8.2. POLICY BACKGROUND

NPS EN-1

4.3.5	Environmental, social, and economic effects from decommissioning.
5.11.5	Consideration of contaminated land statutory guidance.
5.11.15	Contributing to and enhancing the natural and local environment.
5.11.17	Suitability of site: ground conditions, land instability, contamination.
5.11.18	Land contamination risks and opportunities for remediation.
5.11.12	Impacts on best and most versatile (BMV) agricultural land. Use of land in areas of poorer quality.
5.11.13	Soil health and soil quality.
5.11.34	Justification of use of BMV agricultural land.
5.16.6	Protective measures to control the risk of pollution to groundwater.
5.16.7	Impacts on source protection zones around potable groundwater abstractions.

NPS EN-3

2.10.29	Use of previously developed, brownfield, contaminated, industrial land.
2.10.30	Whether the use of BMV agricultural land is allowed.
2.10.31	Use of agricultural land and choice of site.
2.10.32	Efficiency of land use.
2.10.33	Agricultural Land Classification (ALC) and field surveys.
2.10.34	Soil Resources and Management Plan.
2.10.81	Soil stripping.
2.10.127	Damage to soil.

2.10.145	Benefits of BMV agricultural land. Impacts on soils or soil resources.
2.10.146	Plans for decommissioning and restoring the land to a suitable use.

Local Policies

8.2.1. The Lincolnshire County Council (LCC) and North Kesteven District Council (NKDC) Local Impact Reports (LIR) [REP1-088] [REP1-102] refer to the following policies:

- Central Lincolnshire Local Plan (CLLP) Policy S14: Renewable Energy.
- CLLP Policy S21: Flood Risk and Water Resources.
- CLLP Policy S67: Best and Most Versatile Agricultural Land.
- Lincolnshire Minerals and Waste Local Plan Policy DM12: Best and Most Versatile Agricultural Land.

8.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

8.3.1. The applicant's assessment of matters relating to land, soil and groundwater is largely contained within Chapter 11 of the Environmental Statement (ES) [APP-051], accompanying figures [APP-067] and appendices [APP-112 to APP-119]. Cumulative effects are considered in Chapter 16 of the ES [APP-056].

8.3.2. The study area for assessing the effects of the proposed development on receptors that could be impacted during the construction, operation (including maintenance) and/ or decommissioning phase is up to 1 kilometre (km) from the order limits.

8.3.3. The assessment considers the effect of the proposed development on:

- Soil during construction.
- Agricultural land during construction, operation and decommissioning.
- Groundwater and land contamination during construction, operation and decommissioning.

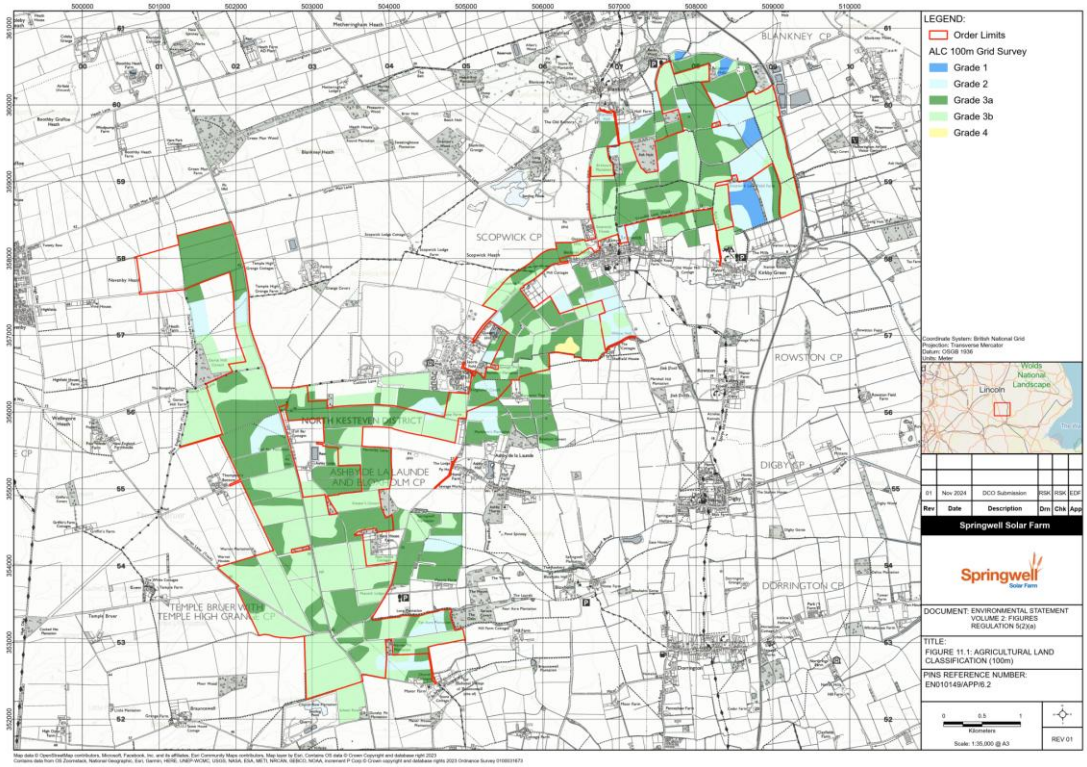
8.3.4. Potential effects on soil during operation and decommissioning were scoped out of the assessment as it was considered by the applicant that there would be limited scope for impacts. Unexploded ordnance was also scoped out of the assessment given the rural nature of the site. Although, an Unexploded Ordnance (UXO) Risk Assessment [APP-119] has been undertaken for the application site.

8.3.5. Assessment criteria for land and soil were derived from the Institute of Environmental Management and Assessment (IEMA) Guide: A New Perspective on Land and Soil in Environmental Impact Assessment. Criteria for groundwater were derived through professional judgement having regard

to Construction Industry Research and Information Associations (CIRIA) 'Contaminated Land Risk Assessment (A guide to good practice)'.

8.3.6. To establish baseline conditions for agricultural land, surveys were conducted between March 2022 and October 2024, in line with the Ministry of Agriculture, Fisheries and Food (MAFF), classification system (1988). The surveys used a combination of records published online, and intrusive investigatory works in order to grade the agricultural land. The ALC for the site identified in the application is set out in Figure 11.1 of the ES [APP-067] and shown below in Figure 5.

Figure 5: Agricultural Land Classification Identified in the Application Site



8.3.7. The amount of land in each grade of Best and Most Versatile (BMV) agricultural land is set out in Table 11.11 of the ES [APP-051] and is replicated below:

Table 1: Amount of Land in Each Agricultural Land Classification Grade

Agricultural Land Classification Grade	Area (ha)	Percentage (%)
Grade 1	6.0	0.5
Grade 2	80.1	6.3
Grade 3a	455.1	35.6
Grade 3b	582.6	45.5
Grade 4	4.2	0.3

Unsurveyed land (field verges, internal tracks, etc)	152.0	11.8
Total BMV	541.2	42.3
Total non-BMV	586.8	45.9
Total	**1280.0**	**100.00**

8.3.8. In order to assess the potential for land contamination, a preliminary risk assessment [APP-115 to APP-118] was undertaken. This comprised of a desk-based review of information published online, the purchase of an environmental data base report, and a site reconnaissance survey in 2022.

8.3.9. A number of sources of information were used to establish the baseline characterisation:

- MAGIC map – online interactive maps providing environmental mapping data from partners including: Department for Environment, Food & Rural Affairs, Historic England, Natural England, Environment Agency, Forestry Commission and Marine Management Organisation.
- British Geological Survey – Geology of Britain online viewer website which provides geological mapping data and copies of scanned historical borehole logs (where available).
- Agricultural Land Classification Map - East Midlands Region.
- Environmental database report provided by Envirocheck.
- Environment Agency data on Groundwater Source Protection Zones (SPZ).

8.3.10. The ES [APP-051] sets out that a number of embedded mitigation measures have been assumed:

- Fields comprising solely of Grade 1 or 2 BMV land within the application site would remain available for arable production.
- The design and layout seeks to minimise disturbance to agricultural land of BMV quality. Where possible, existing access tracks within the order limits would be used, and new access tracks would avoid BMV land as far as practical.
- Solar photovoltaic (PV) mounting structure foundations would be driven or helical piles or concrete footings.
- The foundations for the Solar PV panels would be at a maximum depth of 3 metres, depending on the ground conditions.
- Areas of impermeable surfaces have been assessed in the Flood Risk Assessment [AS-016] and designed to ensure adequate groundwater infiltration is maintained during construction works.
- The Outline Drainage Strategy (oDS) at Appendix A of [AS-016] would ensure that the surface water regime during construction would continue to mirror the existing surface water regime and would ensure that there is minimal effect on the existing groundwater conditions.

CONSTRUCTION PHASE

8.3.11. The assessment [APP-051] sets out that construction activities, including trafficking of agricultural land by construction vehicles, formation of construction compounds, installation of the cable route and earthworks may lead to compaction and deterioration of soil and agricultural land during the construction phase. Access tracks and steep slopes within the application site are likely to be most susceptible to deterioration through erosion. The assessment also notes that some soil types are more susceptible to damage when handled during construction, and due to the use of machinery and vehicular activity, depending upon soil type, climate and wetness class.

8.3.12. The applicant acknowledges that construction activities could lead to localised contamination of soil related to potential spills from construction plant through operation or refuelling activities. Contamination could also be encountered from past development. Further, it notes that activities such as piling, earthworks, access tracks formation and excavation could lead to minor damage to field drains which may affect the localised drainage of the agricultural land and the groundwater quality of the underlying aquifer and SPZ.

8.3.13. As a result of the construction works, spillages and leaks of fuels, oils and chemicals may lead to effects on groundwater which could result in potential pollution to any underlying aquifers. This may arise from runoff associated with construction activities (e.g. silt run-off during earthworks and accidental spills and leaks from construction plant).

8.3.14. Additional mitigation is set out in the Outline Soil Management Plan (oSMP) [REP1-042], which includes a range of measures to manage potential impacts to soil and agricultural land, inline with the principles of best practice, to maintain the physical properties of the soil. The assessment notes that the aim is to restore the land to its preconstruction condition following the temporary construction use and at the end of the lifetime of the proposed development.

8.3.15. In terms of land and groundwater, additional mitigation measures are also set out in the Outline Construction Environmental Management Plan (oCEMP) [APP-0140]. This includes the requirement to produce an interpretative report for site investigation works and a piling assessment. The oCEMP also contains measures to avoid, minimise or mitigate effects on the environment during construction works. Including, procedures to mitigate against erosion, procedures to prevent disturbance of contamination, and emergency procedures to manage accidental spillages and leaks in order to minimise any risk to the soil and groundwater during the construction phase.

8.3.16. The applicant considers that with the additional mitigation the construction stage effects would be:

- Temporary reduction in availability of agricultural land – slight adverse for medium and high sensitivity soils and moderate adverse for very high sensitivity soils.

- Contamination from construction activities or encountering existing contamination – neutral to slight adverse.
- Damage to groundwater quality due to leaks or spills of fuel or chemicals - very low adverse for low and medium sensitivity receptors and low adverse for high sensitivity receptors.
- Damage due to piling or earthworks activities - very low adverse for low sensitivity receptors and low adverse for medium and high sensitivity receptors.

8.3.17. The only effect considered to be significant in Environmental Impact Assessment (EIA) terms is the temporary reduction in availability of agricultural land for very high sensitivity receptors (Grades 1 and 2 BMV land).

OPERATIONAL PHASE

8.3.18. The assessment [APP-051] notes that the operational (including maintenance) phase of the proposed development would lead to a temporary change of land use of 675.4ha of agricultural land, of which 263.4ha is classified as BMV land. The proposed development could lead to temporary impacts to soil and agricultural land for the duration of the operational (including maintenance) phase, in particular the areas in which the Battery Energy Storage System (BESS), Springwell Substation, the Main Collector Compound, satellite collector compounds and where operational access tracks would be located.

8.3.19. The assessment sets out that it is intended that the land would be returned to the landowner(s) for agricultural use. However, for the purposes of the assessment, it has been assumed that green infrastructure (excluding Field Tb2 and the community growing area) would be permanent. The permanent land take for green infrastructure affects a total area of 166.2ha, of which 77ha are classified as BMV land.

8.3.20. It is also set out in the assessment that the areas of land underneath the solar PV panels and within the field margins are expected to be used for ecological mitigation and enhancements. This would include planting and establishment of grassland, which the applicant considers would help to reduce soil degradation and erosion during the operational (including maintenance) phase, which could lead to potential benefits.

8.3.21. In terms of land, the assessment notes potential pathways for contamination, including leaching of contaminants into the underlying soil and groundwater. With respect to groundwater, maintenance works (including cleaning of the solar PV panels and vehicle tracking) could result in spillages and leaks of fuels, oils and chemicals, which could lead to effects on groundwater resulting in potential pollution to underlying aquifers. Further to this, in the instance of a BESS fire there is a potential for chemicals from firefighting water to infiltrate the soil or geological units, which could result in potential pollution to the groundwater and any underlying aquifers.

8.3.22. The oSMP [REP1-042] sets out additional mitigation measures to manage potential impacts to the soil and agricultural land during operation (including maintenance). This identifies areas that may be more susceptible to damage and advises on when soils are suitable for being handled or trafficked. The oSMP also provides details for managing soil and maintaining the physical properties of the soil. The assessment sets out that if appropriate, the timing of works will be managed carefully to consider weather conditions, particularly heavy and persistent rain to minimise vehicles travelling across the site when soil conditions are wet. Movement of maintenance vehicles during the operation (including maintenance) phase would be limited and would follow access tracks that have been established during the construction phase.

8.3.23. The applicant notes that there is the potential to use the open spaces between the infrastructure and the land beneath the solar PV panels for pastoral farming (sheep grazing) during the operation (including maintenance) phase, and therefore some agricultural use of the site could occur during the lifespan of the proposed development. It should be noted that although conditions suitable for grazing can be maintained, the applicant would not be responsible for making arrangements for grazing and does not rely on it as mitigation.

8.3.24. The Outline Operational Environmental Management Plan (oOEMP) [APP-0143] identifies additional mitigation measures for land and groundwater. This includes procedures to mitigate against erosion and contaminated land, and emergency procedures to manage accidental spillages and leaks in order to minimise any risk to the soil and groundwater.

8.3.25. The assessment sets out that to manage the potential impact of firewater associated with the operation of the BESS, a tanker would be required to remove firewater, which would prevent release to the surrounding environment. The procedures for managing the firewater and mitigating any impact to the environment are documented within and secured by the oOEMP and requirements for the control and safety of the BESS are documented and secured within the Outline Battery Safety Management Plan (oBSMP) [APP-0147].

8.3.26. Taking into account the additional mitigation measures, the applicant considers the operation (including maintenance) effects would be:

- Temporary reduction in availability of agricultural land – slight adverse for medium and high sensitivity soils and moderate adverse for very high sensitivity soils.
- Permanent reduction in availability of agricultural land in areas of permanent green infrastructure - moderate to large adverse for medium sensitivity receptors, large to very large adverse for high sensitivity receptors and very large adverse for very high sensitivity receptors.
- Soil quality in areas of permanent green infrastructure – moderate to large beneficial for medium sensitivity receptors, large to very large beneficial for high sensitivity receptors and very large beneficial for very high sensitivity receptors.

- Contamination from operation (including maintenance) activities - neutral to slight adverse.
- Contamination from release of firewater from the BESS compound - neutral to slight adverse.
- Damage to groundwater quality due to leaks or spills of fuel or chemicals - very low adverse for low sensitivity receptors and low adverse for medium and high sensitivity receptors.

8.3.27. The temporary reduction in availability of agricultural land for very high sensitivity receptors (Grades 1 and 2 BMV land) and the availability of agricultural land in areas of permanent green infrastructure for all receptors are considered to be significant adverse effects in EIA terms. Soil quality in areas of permanent green infrastructure is considered to be a significant beneficial effect in EIA terms for all receptors. All other effects are considered to be not significant.

DECOMMISIONING PHASE

8.3.28. The decommissioning phase would involve the removal of the solar PV infrastructure, including the ground mounted solar PV generating stations, collector compounds, springwell substation, BESS and ancillary infrastructure, including any on-site compounds. All concrete, hardstanding areas, foundations for the infrastructure and any internal tracks would be removed to a depth of up to 1m. The assessment [APP-051] assumes that all the below ground cables would be left in-situ as these are likely to be located at a depth greater than 1m. Therefore, it is considered leaving them in the ground would limit the disturbance and impact to soil quality.

8.3.29. The applicant notes there is potential for erosion associated with works conducted on steep slopes located within the order limits. The number of vehicle movements is anticipated to be less than during the construction phase, limiting the potential for compaction of soil to occur. The assessment sets out that decommissioning works are less likely than construction works to adversely impact on agricultural field drains as there would be no requirement for piling, so this phase is less likely to result in deterioration of soil quality.

8.3.30. The assessment also refers to the same effects in terms of permanent loss of agricultural land to green infrastructure and opportunities for beneficial effects on soil quality in such areas, as in the operational phase.

8.3.31. Potential effects on land and groundwater are likely to be similar to those from the construction phase. The assessment notes that in the event of a fire associated with the BESS, firewater will be generated which could contain compounds that are harmful to the soil, geological units and groundwater. Although the BESS would be one of the elements that is to be decommissioned, there may be a period of the decommissioning phase during which is it still operational, when this issue would remain a potential effect.

8.3.32. The Outline Decommissioning Environmental Management Plan (oDEMP) [APP-0146], oSMP [REP1-042] and oBSMP [APP-0147] all contain additional mitigation measures similar to those in the construction and operation phases, to seek to minimise any effects from the decommissioning phase. Having regard to these, the applicant considers that the decommissioning effects would be:

- Availability of agricultural land in areas of permanent green infrastructure - moderate to large adverse for medium sensitivity receptors, large to very large adverse for high sensitivity receptors and very large adverse for very high sensitivity receptors (same effect as for operational phase).
- Soil quality in areas of permanent green infrastructure – moderate to large beneficial for medium sensitivity receptors, large to very large beneficial for high sensitivity receptors and very large beneficial for very high sensitivity receptors (same effect as for operational phase).
- Soil damage during decommissioning – neutral for medium sensitivity receptors and slight adverse for high and very high sensitivity receptors.
- Contamination as a result of decommissioning activities (including spills or refuelling activities) – neutral to slight adverse.
- Contamination from release of firewater from the BESS compound - neutral to slight adverse.
- Damage to groundwater quality due to leaks or spills of fuel or chemicals - very low adverse for low sensitivity receptors and low adverse for medium and high sensitivity receptors.

8.3.33. As in the operational phase, the temporary reduction in availability of agricultural land for very high sensitivity receptors (Grades 1 and 2 BMV land) and the availability of agricultural land in areas of permanent green infrastructure for all receptors are considered to be significant adverse effects in EIA terms. Soil quality in areas of permanent green infrastructure is considered to be a significant beneficial effect for all receptors. All other effects are considered to be not significant.

CUMULATIVE EFFECTS

8.3.34. The cumulative effects assessment [APP-056] considers that there would be no significant effects for land, soil and groundwater when considered in combination with the proposed National Grid Navenby Substation (NGNS) and other relevant developments.

8.3.35. The assessment considers the loss of BMV land with other solar developments in the Lincolnshire area and those that straddle or are close to the county border with Nottinghamshire (One Earth Solar Farm and Great North Road Solar Park). This estimates that 7,922.05ha of BMV land could be affected by solar developments. The applicant estimates the total area of BMV agricultural land within Lincolnshire to be over 410,000ha and therefore all of the solar farm developments in combination would affect just over 2% of the BMV land in Lincolnshire. Removing One Earth Solar Farm and Great North Road Solar Park would result in this figure decreasing to 1.5%. The applicant considers that inter-project cumulative effects are considered minimal in the context of the remaining BMV available at a county level.

8.4. ISSUES CONSIDERED DURING THE EXAMINATION

BEST AND MOST VERSATILE AGRICULTURAL LAND AND SOIL

8.4.1. LCC and NKDC raised concerns about the loss of BMV agricultural land and effects on soil in their LIRs [REP1-088] [REP1-102]. The areas of difference that remained between the parties at the end of the examination can be summarised as [REP5-021] [REP5-022]:

- LCC and NKDC disagreed with the assessment methodology, which bases impact magnitude solely on the permanent loss of soil functions or volume, as this does not account for loss of agricultural/ food production over the lifetime of the proposed development. It was recommended that assessment of loss should include both permanent and temporary in line with the CLLP.
- NKDC disagreed that the applicant places weight on effects being temporary and that permanent 'sealed over' land is limited. Concerns remained that components such as the satellite collector compounds, BESS, Springwell Substation, and main collector compound could result in permanent BMV land loss.
- NKDC set out that temporary green infrastructure in field Tb2 and a community growing area may result in up to 20 ha of further permanent BMV land loss over 40 years, which is not fully explained in the ES.
- NKDC considered that grazing should be secured as part of the package of mitigation measures to ensure that agricultural practices continue on the site.

8.4.2. Both LCC and NKDC considered the scale of the project and the amount of BMV land, both for the proposed development itself and cumulatively with other solar farm projects, makes the impact significant at both district and county level.

8.4.3. The applicant's position [REP1-070] [REP5-021] [REP5-022] on these matters was:

- It has assessed soil and BMV land impacts in line with industry guidance (Institute of Environmental Management and Assessment, 2022).
- Both temporary and permanent land uses are assessed.
- Policy S14 of the CLLP has been considered, with careful siting to minimise impacts on higher quality agricultural land.
- Permanent land use change is assumed only for 166.2ha, including 77ha of BMV land proposed for green infrastructure (which provides biodiversity mitigation and enhancement rather than hard development) and this has been assessed as a significant adverse effect.
- Temporary impacts would be mitigated during operation via measures in the oSMP [REP3-042].
- Land returned to agriculture post decommissioning will be restored to its original ALC grade, in line with NPS EN-3.

- Decommissioning will follow industry best practice, including track matting, avoiding wet conditions, and using pile screws, as secured in the oSMP.
- Whilst a 40-year solar farm may seem like a long-term land use from a human perspective, it represents only a brief moment in the lifespan of soils, which develop and change over geological timescales spanning hundreds of thousands to millions of years. Therefore, its impact on soil processes is relatively short-term in the context of soil evolution.
- Whilst grazing may be a possibility as set out in the oSMP, the applicant does not rely on it as an ongoing agricultural use to mitigate the impact on BMV land. Therefore, it did not commit to grazing as part of the proposed development.
- Cumulative effects would not be significant.
- Following amendments to the National Planning Policy Framework (NPPF) in December 2024, there is no longer a need to consider food production in land use planning terms. NPPF 2024 has amended the previous footnote 62 (now footnote 65) to remove the need to consider the availability of agricultural land for food production. However, even if this were a relevant policy consideration, the applicant maintains that the impacts of the proposed development on food production would not be significant.

8.4.4. During the examination, the ExA asked the parties through written questions ExQ1.9.4 [PD-007] and ExQ2.9.1 [PD-010] and at ISH3 [EV6-006] [EV6-007] whether land occupied by fixed solar equipment (satellite collector compounds, BESS and springwell substation and main collector compound) should be considered a permanent loss. NKDC explained [REP3-080] that the loss of land from these hard standing areas is a permanent impact, as it is virtually impossible to mitigate effects on soil quality. NKDC also added that other NSIP solar farm projects where land to be sealed under hardstanding, was taken as a permanent loss of agricultural land. This included Heckington Fen, Mallard Pass, Gate Burton and Cottam solar farm projects.

8.4.5. The applicant disagreed [REP4-049] with this analysis stating that all of those developments commit to the removal of hardstanding during the decommissioning phase of the project and to restoring the agricultural land to the same ALC grade, therefore committing to no permanent loss of agricultural land from the areas sealed under hardstanding. Further, this is the same approach that has been undertaken for the proposed development. The applicant went on to state that land sealed under hardstanding is considered temporary following the implementation of mitigation in the form of an oSMP, as this land can be returned to agricultural use following reinstatement.

8.4.6. Natural England (NE) raised [RR-291] some initial concerns relating to clarification of land use categories, justification for the use of this BMV resource for areas of irreversible land use change, justification for the need to handle soils in the wetter winter period, and that the oSMP needed to make a clear commitment to restoring agricultural land to its original ALC

grade. Following further discussions between the parties and alterations made to the oSMP and R18 of the dDCO to include NE as a consultee on the final soil management plan, there were no outstanding matters at the end of the examination between the parties, as set out in the SoCG [REP4-043].

8.4.7. A significant number of Interested Parties (IPs) [too many to list] raised concerns about the loss of BMV agricultural land and effects on soil. These include:

- The ALC surveys should be undertaken independently, and the applicant's surveys underestimate the amount of BMV agricultural land affected, such as [REP2-032].
- Lincolnshire is the breadbasket of the nation, for example [RR-117].
- The land's productivity would be ruined, with concrete, wires etc left in the ground and trees planted on much of the land, such as [RR-370]
- The land is well irrigated, which enhances the capacity of the primary soil types, such as [AS-024].
- Food security should be a greater priority given current events in the world, for example [RR-279]
- Alternatives to avoid BMV land have not been suitably considered, such as [AS-024].
- A study from Italy has shown that after seven years, soil under solar panels has reduced fertility and reduced water holding capacity than the soil in the gaps between panels and on surrounding land [REP4-065].
- Loss of agricultural land (including cumulatively) could lead to increased reliance on food imports, raising concerns about sustainability due to longer supply chains, higher carbon emissions, and food miles, for example [REP5-039].

8.4.8. The ExA also asked several questions through ExQ1.9.1 to ExQ1.9.6 [PD-007], ISH3 [EV6-006] [EV6-007] and ExQ2.2.9 [PD-010] relating to these matters. The applicant's position [REP1-070] [REP1-071] [REP1-072] [REP3-075] [REP5-030] in response to matters raised by IPs and the ExA's questions can be summarised as:

- The ALC survey was performed in accordance with the ALC system as per the MAFF guidance, 1988. The methodology used for the survey and results were agreed with NE, LCC and NKDC.
- It has sought to reduce impacts on BMV land and preferably use land in areas of poorer quality, except where this would be inconsistent with other sustainability considerations. This influenced both the initial site selection process and the subsequent design evolution of the proposed development, as set out in the Site Selection Report [AS-018]. This includes retaining fields for arable production that comprise solely of Grade 1 or 2 BMV land. Non BMV land was prioritised for habitat creation and green infrastructure.
- It would not be possible to advance with the proposed development without the use of some BMV land and the applicant has provided justification for this, as set out within the Planning Statement [AS-018].

- With the exception of BMV land proposed for ecological enhancements or landscaping, impacts on BMV land would be temporary and reversible. Works would be completed in accordance with the oSMP and oCEMP and upon decommissioning, the land would be returned to the landowner and able to be used for agriculture.
- During the operational phase, soil quality would be improved due to reduced agricultural pressure through heavy machinery, ploughing, fertilisers, herbicides and pesticides.
- In the context of the county, BMV land is abundant. The area of BMV agricultural land within Lincolnshire is estimated to be over 410,000ha. The proposed development occupies approximately 0.13% of this land, of which 0.002% is assessed as being permanently used as green infrastructure.
- When considered alongside other large scale solar projects in Lincolnshire and on a precautionary basis, it is estimated that approximately 2.02% of the county BMV land resource would be temporarily used on a long-term basis.
- The proposed development supports the economic resilience of the Blankney Estate, contributing to long-term agricultural productivity and estate viability.

EXA'S CONCLUSIONS ON BEST AND MOST VERSATILE AGRICULTURAL LAND

8.4.9. NPS EN-1 and NPS EN-3 make clear that applicants should not site their scheme on BMV agricultural land without justification and should seek to minimise impacts on such land. Where the use of agricultural land is necessary it is preferable to use land in areas of poorer quality (grades 3b, 4 and 5).

8.4.10. NPS EN-3 also notes that whilst the development of ground mounted solar arrays is not prohibited on BMV land, such effects will need to be considered. Further, it accepts that large scale solar farms are likely to use some agricultural land but requires that applicants explain their choice of site, noting the preference for brownfield, industrial and low and medium grade agricultural land.

8.4.11. The ExA accepts that the applicant has sought to reduce impacts on BMV land and has selected land in areas of poorer quality where possible, except where this would be inconsistent with other sustainability considerations. The ExA is content that the applicant has sought, as far as possible, to avoid the use of BMV land and that it formed an important part of the site selection process as set out in the Site Selection Report [AS-018]. As identified above by the applicant, this included retaining fields for arable production that comprise solely of Grade 1 or 2 BMV land and prioritising poorer quality non BMV land for habitat creation and green infrastructure. The ExA notes that NE, LCC and NKDC share this view. The ExA's consideration of alternatives, including site selection can be found in Chapter 4.

8.4.12. The ExA is content that the final version of the oSMP [REP3-042] contains measures that would reduce effects on BMV land as far as reasonably possible, in accordance with paragraph 2.10.34 of NPS EN-3.

8.4.13. The ExA notes that the ALC surveys were undertaken by suitable professionals and in accordance with MAFF guidance, 1988. NE, LCC and NKDC all agree with the methodology used and the results. This gives the ExA confidence that the ALC surveys are accurate and robust in accordance with paragraph 2.10.33 of NPS EN-3.

8.4.14. The ES does not consider the temporary loss of food production as a result of the proposed development. The applicant has explained it took this approach on the basis of alterations to the NPPF, as set out above. Whilst such changes are noted, the ExA is mindful that paragraph 5.11.34 of NPS EN-1 sets out that where schemes are to be sited on BMV land, the Secretary of State should take into account the economic and other benefits of that land. The ExA considers that food production and security would logically fall within such considerations and should therefore be taken into account.

8.4.15. The ExA acknowledges that the applicant's assessment does not rely on sheep grazing to mitigate impacts on BMV land and we accept that during the operation phase, soil quality would be improved due to reduced agricultural pressure through heavy machinery, ploughing, fertilisers, herbicides and pesticides. The ExA agrees with the applicant on this matter and is content that impacts on BMV land can be mitigated without grazing, as set out in the oSMP.

8.4.16. In terms of the consideration of land under the proposed larger components of infrastructure, such as the satellite collector compounds, BESS, springwell substation and main collector compound, the ExA considers that soil compaction under large areas of hardstanding could result in long term effects on soil quality. On this basis, the ExA considers this does raise questions on the ability to return this land back to its previous ALC classification of BMV land, certainly within a timely fashion after decommissioning. Taking a precautionary approach, the ExA considers this should be considered a permanent loss as suggested by NKDC. The ExA notes that it is common for such areas to be considered a permanent loss as set out by the details of other solar farm projects provided by NKDC above.

8.4.17. Turning to similar concerns about the ability to return temporary green infrastructure in field Tb2 and a community growing area back to BMV land. The ExA are less convinced by this argument and is of the view that there is a reasonable likelihood that this land could be returned to its previous grade of BMV land.

8.4.18. The proposal would lead to the permanent loss of 77ha of BMV land for green infrastructure and given the ExA's findings above, a further 21ha should be considered as a permanent loss when taking a precautionary approach to land under large areas of hardstanding and infrastructure, a total of 98ha. Further to this, the temporary loss of food production on land

amounting to some 443ha over the 40 year lifetime of the proposed development also weighs against the scheme.

8.4.19. The ExA considers it is important to recognise that the proposed development would occupy approximately 0.13% of BMV land in Lincolnshire and the majority of this would be affected temporarily. Further, cumulatively with other solar farm projects located in Lincolnshire or on or close to the Nottinghamshire border, 2.02% of BMV land in Lincolnshire would be affected (including the proposed Leoda Solar Farm project), again with most of this land likely to be affected temporarily.

8.4.20. Set in this context and bearing in mind the likely improvements to soil quality during the operation phase, the ExA considers that temporary and permanent effects on BMV land, including the loss of food production and its contribution to food security, weighs a little against the making of the order.

8.4.21. The ExA notes points raised by IPs about the BMV land on the site being well irrigated. However, the ExA considers that this does not alter its conclusions against relevant policy tests. The research provided by an IP about reduced fertility and reduced water holding capacity in soil located under solar PV panels is also acknowledged. Although, the ExA is mindful that this was undertaken in Italy and in a different climate. Therefore, the ExA considers that its findings are of limited comparison, and it does not alter the ExA's overall conclusions.

BESS FIREWATER AND EFFECTS ON GROUNDWATER

8.4.22. The Environment Agency (EA) [RR-130] considered that the BESS emergency response plan (ERP) should consider the potential effect of the release of firewater from the BESS compound on groundwater quality. The ExA asked the EA through written question ExQ1.9.9 [PD-007] what further information should be provided in this regard. The EA set out [REP1-085] a number of areas where it considered more information was needed, such as the volumes of likely firewater and water that would be contained.

8.4.23. The applicant responded [REP1-071] [REP2-023] by setting out that:

- The oBSMP [APP-0147] details measures to minimise any environmental impacts of firefighting water runoff.
- In accordance with National Fire Chiefs Council (NFCC) guidance, the Fire and Rescue Service (FRS) are expected to employ a defensive strategy, with only boundary cooling as this will reduce the water requirements, and thus the drainage/ environmental protection requirements significantly.
- NFCC guidance states a minimum amount of water to have available, not a maximum. The amount of firefighting water to be held on site will be determined as part of detailed design.
- It is fully cognisant that firefighting water runoff may contain particles from a fire, therefore runoff must be contained and tested before being allowed to discharge to the local watercourses.

- Mitigation measures secured by the oOEMP [APP-0143] include measures to manage firewater associated with the BESS. The drainage system would be designed to capture water during a thermal runaway event, where it can be tested and released or, if necessary, removed by tanker and treated offsite (in consultation with the relevant consultees at the time).
- The oDS at Appendix 1 of [AS-016] details how firefighting water will be captured, with the system specifications finalised and agreed at the detailed design stage and incorporated into the ERP.

8.4.24. At ISH3 [EV6-006] [EV6-007], the ExA noted that there appeared to be some differences in wording about how firewater would be managed in the oOEMP [APP-0143] and the applicant's response to written question ExQ1.9.9 [REP1-071]. The applicant subsequently amended the oOEMP [REP3-039] to confirm that the drainage system would be designed to capture water during a thermal runaway event at the BESS, where it can be tested and released or, if necessary, removed by tanker and treated.

8.4.25. At ISH3, the EA also set out [REP3-078] that it had held a meeting with the applicant and the EA were satisfied with the details provided to date and, as a consultee to the ERP, it will have an opportunity to comment on the final detailed proposals. The EA [REP4-054] did subsequently raise concern about the wording added to the oOEMP [REP3-039]. However, the applicant confirmed [REP4-048] it had amended the oOEMP [REP4-032] with the agreed wording. At the end of the examination there were no outstanding issues between the parties in this regard.

8.4.26. A large number of IPs, for example [RR-369] [REP1-115] also raised concern about the potential for contaminants from a BESS thermal runaway event and subsequent firewater affecting groundwater. In summary the issues raised, include:

- The BESS is located over the Lincolnshire limestone aquifer which is a high-risk drinking water protected area.
- There should be total containment of firewater.
- The design of the firewater run-off containment system and its capacity must be based on the worst-case scenario not the most likely.
- The applicant has understated the amount of water that may be required to bring a BESS fire under control.
- Potentially millions of litres of firewater runoff could not be contained in an underground attenuation tank or bunded holding lagoon.
- The BESS does not comply with Policy S21 of the CLLP as it is proposed to be constructed in a location where in the event of a fire there will be a risk of contamination to groundwater in breach of the Water Framework Directive (WFD).

8.4.27. The applicant responded [REP1-070] [REP1-073] by setting out:

- The oBSMP [APP-0147] and oDS at Appendix 1 of [AS-016] set out methods to collect, contain and manage any firefighting water runoff during a thermal runaway event. It also sets out the drainage strategy for

normal operation, including rainwater runoff. This would help to avoid, control and mitigate the risk of contamination to nearby receptors.

- Mitigation discussed and agreed with FRS relates to the potential need for water to cool adjacent enclosures in the event of a fire.
- If required, the BESS compound can accommodate water storage over and above the minimum currently required. The proposed development in the indicative design and oBSMP has 4 hours water supply, 1900 litres of water per minute, which is double the volume needed for NFCC guidance.
- The drainage system would be designed to fully capture external firefighting water, where the stored water would be tested before release or, if necessary, removed by tanker and treated offsite. If the captured firefighting water is deemed suitable, it can be reused by firefighters if additional water supplies are required for continued boundary cooling.
- Firewater will be collected on-site, therefore, any contaminants present would not be released to the environment and would not be able to leach into the groundwater.
- It has agreed with the EA that a WFD Assessment is not required, and the applicant has outlined measures that will be undertaken to protect groundwater during the construction, operation (including maintenance) and decommissioning in the relevant management plans.
- Mitigation will be finalised during detailed design.

EXA'S CONCLUSIONS ON BESS FIREWATER AND EFFECTS ON GROUNDWATER

8.4.28. The ExA acknowledges the significant concerns of IPs in relation to this matter and has examined the issue carefully during the examination. The ExA is mindful that the applicant has engaged with the EA during the examination who is now content with the level of information provided and would also be a consultee to the final BSMP as secured by requirement (R) 7 of the rDCO.

8.4.29. Further to this and as discussed in more detail in Chapter 5 Air Quality, the applicant has engaged with the FRS who are also content [REP5-021]. The FRS would also be a consultee on the finalisation of the BSMP.

8.4.30. The ExA notes that the oBSMP [REP1-048] sets out that the final BESS design would need to in accordance with all relevant guidance at the time, including from the NFCC.

8.4.31. Given all of this and the mitigation measures set out in the final draft of the oOEMP [REP4-032], secured by R13 of the rDCO and the oDS at Appendix 1 of [REP1-050], secured by R10 of the rDCO, the ExA is content that if a thermal runaway event were to occur, BESS firewater would be suitably managed and there would not be any unacceptable risk to groundwater quality from the proposed development in this regard. This is therefore a matter that should not weigh against the proposed development.

UNEXPECTED CONTAMINATION

8.4.32. The EA requested [RR-130] an additional requirement be included in the dDCO to cover the procedure if unexpected contamination is encountered, including the submission and approval of a remediation strategy and verification report. Following the concerns of the EA the applicant amended the oCEMP [REP1-060] to include a procedure should this occur.

8.4.33. The EA considered that the procedure should be a requirement in the dDCO rather than in a management plan and explained [EV6-006] [EV6-007] that this was because of the vicinity of areas of groundwater sensitivity and abstraction, that provides significant quantities of drinking water to the area and the need to secure an appropriate procedure.

8.4.34. The ExA included the addition of the requirement as proposed by the EA in its proposed schedule of changes to the dDCO [PD-009]. The applicant maintained its position [EV6-006] [EV6-007] [REP3-075] [REP4-050] that the oCEMP was the appropriate place to contain the procedure in line with best practice and is allowed for 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. The applicant also added that there was no specific contamination risk and that this was purely a precautionary process put in place for unexpected finds.

8.4.35. Further, the applicant considered its approach reflected that of most made solar farm DCOs and that the examples of an unexpected contamination requirement in orders tended to be for projects in more industrialised, non-rural areas. In response, the EA [EV6-006] [EV6-007] noted that a similar requirement had been imposed in the made DCO for the Viking CCS Pipeline, 2025 that passes through a rural area.

8.4.36. At the end of the examination this remained a point of disagreement between the parties [REP3-065].

EXA'S CONCLUSIONS ON UNEXPECTED CONTAMINATION

8.4.37. The ExA notes that there was no specific contamination risks identified in the applicant's assessment. However, the ExA agrees with the EA that due to the vicinity of areas of groundwater sensitivity and abstraction, that provides significant quantities of drinking water to the area, and the importance of protecting this for human health, the procedure for dealing with unexpected contamination should be on the face of the dDCO. The ExA has therefore included, in its rDCO, the following additional requirement in line with the wording suggested by the EA:

'Procedure in cases of unexpected contamination

22.-(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 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.'

OTHER MATTERS

Potential for Pollutants from Solar PV Panels

8.4.38. A large number of IPs [too many to list] raised concerns that broken or degraded solar PV panels could leak pollutants and heavy metals into groundwater.

8.4.39. The applicant set out [REP1-070] that the land beneath and around the solar panels will not be adversely affected by any release of contaminants from the panels themselves as they are sealed units, and any internal components are protected from the weather by the external frame and cover.

8.4.40. The ExA asked through ExQ1.9.10 [PD-007] how the applicant would mitigate such risks. The applicant responded [REP1-071] by setting out that during the operational life of each solar panel, maintenance operations would ensure that no chemicals or heavy metals would be released from within the panels and that there are not expected to be any leaking of chemicals from the panels as part of normal operation.

8.4.41. The applicant also noted that for faulty, damaged or end of-life assets, a key method to reducing the risk of chemical impacts is to ensure they are removed and disposed of responsibly and any damaged panels would be removed and replaced in accordance with the oOEMP [REP2-015]. Finally, the applicant set out that any unexpected contamination would be dealt with appropriately, in accordance with the procedures set out in the oOEMP. This includes measures such as immediate cessation of works, containment of impacted materials, notification to the relevant authorities, site investigation through sampling and testing, development and approval of a remediation strategy and supervised excavation by a geo-environmental professional.

8.4.42. The ExA is content that these measures would ensure that any potential harm to groundwater through the leaking of pollutants from solar PV panels is suitably mitigated and does not weigh against the proposed development.

Potential for Contamination from Cables Left in the Ground During Decommissioning

8.4.43. Several IPs, for example [REP1-146] raised concerns about leaving cables buried in the ground during decommissioning. In particular, the potential for the plastic coating to degrade causing pollutants. The applicant [REP2-023] considers that such an approach reflects common practice for electricity distribution network operators infrastructure (such as substations) and the associated export cables. The applicant is of the view that cables that are left in situ below 1m underground would not cause any contamination.

8.4.44. The ExA asked the EA, LCC and NKDC at ISH3 [EV6-006] [EV6-007] whether they were content with such an approach. The EA set out that it would review the situation at the time of decommissioning and make comments in the context of the current environmental guidance policy and good practice in force at that time. NKDC were generally content with the general approach to leave the cables in the ground. Both LCC and NKDC noted that it would be better to avoid unnecessary agricultural disruption to the land caused by cable removal in circumstances where the cables were considered safe and buried permanently.

8.4.45. The applicant added that the approach would be dependent upon the legislation and industry standards at the time of decommissioning and the oDEMP [REP2-021] requires, when the final DEMP is approved, that LCC, the EA and NE be consulted as part of the approval by the relevant planning authority. The applicant also set out that the approach proposed is consistent with most, if not all, made orders for NSIP-scale solar schemes to date.

8.4.46. The ExA is mindful that decommissioning would be undertaken a significant period of time in the future and is content that the oDEMP, secured by R19 of the rDCO, would ensure that the decision to leave buried cables in the ground would be based on environmental guidance policy and good practice in force at that time. The ExA considers this to be an appropriate approach and would ensure there would unlikely be any unacceptable effects in this regard at that time. This matter does therefore also not weigh against the proposed development.

8.5. EXA'S CONCLUSIONS ON LAND, SOIL AND GROUNDWATER

8.5.1. The ExA has found that the applicant has met the expectations of NPS EN-1 and EN-3 in relation to the use of BMV agricultural land as set out in the table at the start of this chapter. The ExA considers that temporary and permanent effects on BMV land, including cumulative effects and the loss of food production and its contribution to food security, weighs a little against the making of the order.

8.5.2. The oBSMP [REP1-048] sets out that the final BESS design would need to be in accordance with all relevant guidance at the time, including from the NFCC. Given this and having regard to mitigation measures set out in the final draft of the oOEMP [REP4-032] and the oDS at Appendix 1 of [REP1-

050], the ExA is content that should a thermal runaway event occur, BESS firewater would be suitably managed and there would not be any unacceptable risk to groundwater quality from the proposed development. This is therefore a matter that does not weigh against the proposed development.

8.5.3. The ExA considers that due to the vicinity of areas of groundwater sensitivity and abstraction, which provide significant quantities of drinking water to the area, along with the importance of protecting this for human health, the procedure for dealing with unexpected contamination should be on the face of the DCO and has therefore recommended a new requirement in its rDCO.

8.5.4. The ExA is content that measures set out in the oOEMP would ensure that there would be no potential harm to groundwater through the leaking of pollutants from solar PV panels. Further, the ExA is of the view that the applicant's approach to considering whether to leave cables buried in the ground during decommissioning which would be based on environmental guidance policy and good practice in force at that time, as set out in the oDEMP, to be appropriate and is content that this would ensure there is unlikely to be any unacceptable effects at that time. Therefore, these matters also do not weigh against the proposed development.

8.5.5. Overall, and considering all of the matters discussed in this chapter, including cumulative effects, the ExA concludes that land, soil and groundwater weighs a little against the making of the order.

9. LANDSCAPE AND VISUAL IMPACT

9.1. INTRODUCTION

9.1.1. This chapter considers the effect of the proposed development in relation to landscape and visual impacts. It includes the effects of the proposed development on the fabric and character of the landscape, visual effects on recreational users, users of the road network and occupiers of residential properties, and glint and glare effects. Effects on tourism and health and wellbeing are considered in Chapter 11 (Population).

9.2. POLICY BACKGROUND

General Considerations

NPS EN-1

4.7.11	Functionality, aesthetics, and visual impacts on the landscape.
5.10.12	Local landscapes, local policies, and landscape character assessment.
5.10.14	Visual effects on sensitive receptors.
5.10.17	Landscape character assessment and local policies.
5.10.19	Negative effects and opportunities for positive benefits.
5.10.21	Impacts on views and visual amenity, light pollution.
5.10.22	Landscape and visual effects of noise and light pollution.
5.10.24	Enhancing landscapes.
5.10.27	Siting, colour, materials, and sympathetic landscaping.
5.10.29	The level of detailed design.
5.10.30	Design content and future consenting.
5.10.35	Adverse landscape impact and the benefits, including need.
5.10.36	Temporary impacts.
5.10.37	Design and impact on the landscape.
5.10.38	Requirements to incorporate design details.

NPS EN-3

2.10.43	Visual impact: users of existing Public Rights of Way.
2.10.47	Visual impact: security measures including light pollution and CCTV.
2.10.48	Landscape and visual impact: security measures.
2.10.98	Landscape and visual impact: good design.

2.10.99	Landscape and visual impact: security and fencing.
2.10.100	Vegetation, hedges, and mature trees on site boundaries.
2.10.131	Screening with native hedges, trees, and woodlands.
2.10.132	Security fencing, use of existing features.
2.10.133	Security lighting and passive infra-red technology.

Glint and Glare

NPS EN-1

5.5.39	Bodies to be consulted.
5.5.55	Design of lighting.
5.5.60	Risks to national security and physical safety.

NPS EN-3

2.10.104	Bodies to be consulted.
2.10.158	Design of lighting.
2.10.159	Risks to national security and physical safety.

Local Policies

9.2.1. The Local Impact Reports (LIR) provided by Lincolnshire County Council (LCC) [REP1-088] and North Kesteven District Council (NKDC) [REP1-102] identify the following relevant local policies:

Central Lincolnshire Local Plan 2023-2043 (CLLP)

- Policy S1 - The Spatial Strategy and Settlement Hierarchy.
- Policy S5 - Development in the Countryside.
- Policy S14 - Renewable Energy.
- Policy S53 - Design and Amenity.
- Policy S62 - Area of Outstanding Natural Beauty and Areas of Great Landscape Value.
- Policy S66 - Trees, Woodland and Hedgerows.

Scopwick and Kirkby Green Neighbourhood Plan 2021-2036 (SKGNP)

- Policy 2 - Protecting the Landscape Character.
- Policy 6 - Achieving High Quality Design.

9.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

9.3.1. The applicant's assessment of matters relating to landscape and visual impact is largely contained within Chapter 10 of the Environmental Statement

(ES) [APP-050] and accompanying figures [APP-066], appendices [APP-107] [APP-108] [APP-109] [APP-110] [APP-111], and landscape visualisations [APP-127] [APP-128] [APP-129] [APP-130] [APP-131] [APP-132] [APP-133]. The assessment of matters relating to glint and glare is contained in the Glint and Glare Study [APP-078].

9.3.2. A summary description of the proposed development site and surrounding area can be found in Chapter 1 of this report and a detailed description can be found in ES Chapter 2 [APP-042] and the Design Approach Document (DAD) [APP-0137].

LANDSCAPE AND VISUAL

9.3.3. Potential effects are considered during the construction, operation and decommissioning stages on the landscape as a resource, including on the landscape character of the site and surrounding areas within the study area, and on views and visual amenity as experienced by people in the study area.

9.3.4. The study area for the assessment was set as a 3 kilometre (km) offset from any siting zones for elements up to 6 metres (m) in height. This includes all the siting zones for solar photovoltaic (PV) panels, satellite collector compounds and the battery energy storage system (BESS). The study area was extended to 5km from the siting zone for structures up to 12m in height which includes the proposed location of the springwell substation and main collector compound. The applicant states in the ES [APP-050] that the detailed screening Zone of Theoretical Visibility (ZTV) [APP-066] and subsequent site work established categorically that beyond these distances, there would be no discernible view of these elements.

9.3.5. The receptors and matters that were scoped in and out of the applicant's assessment are set out in tables 10.2 and 10.3 of the ES [APP-050] with accompanying justification.

9.3.6. At a national level, the proposed development site falls within National Character Area (NCA) 47: Southern Lincolnshire Edge and the majority of the study area also falls within this NCA. At a district level, the North Kesteven Landscape Character Assessment [REP1-071] identifies four regional landscape character types (LCT), of which the entire study area falls within the Central Plateau LCT. The LCT is further subdivided into LCAs. Springwell West and Springwell Central fall within LCA 7: Limestone Heath LCA whilst Springwell East falls within LCA 11: Central Clays and Gravels LCA.

9.3.7. The applicant identified in the ES [APP-050] that there are notable differences in the landscape character across Springwell West, Central and East and these reflect the boundaries of the LCAs. Notably, the landscape within Springwell West and Springwell Central is more open with limited mature vegetation structure whereas the landscape within Springwell East is more enclosed with more dense and established vegetation.

9.3.8. LCA 6: Lincoln Cliff and LCA 13: Fens also fall within the study area and lie approximately 3km to the west and 3km to the east respectively of the proposed development site. However, the applicant did not scope these LCAs into the assessment as it determined from site work that the proposed development would not be discernible from any location within either of these two LCAs.

9.3.9. No part of the proposed development site or its immediately surrounding context falls within a statutorily designated landscape. There are no registered parks and gardens within the study area. The nearest local designation is the Lincoln Cliff Area of Great Landscape Value; an escarpment west of and parallel to the A607 between Grantham and Lincoln. The applicant confirmed there would be no view of the proposed development from the Lincoln Cliff Area of Great Landscape Value [APP-050].

9.3.10. The applicant identified that the following primary visual receptors within the study area would be likely to be affected by the proposed development.

- Residents (principally at isolated farmsteads and dwellings).
- Users of Public Rights of Way (PRoW).
- Users of the local and trunk road network.

9.3.11. A total of 40 assessment viewpoint locations were agreed with NKDC and LCC to represent the main landscape and visual receptors found in the study area. Analysis of these viewpoints can be found in Appendix 10.4 of the ES [APP-110].

9.3.12. The applicant considered that the future baseline would be the same as the current baseline. It stated that whilst agricultural practices and crops may change resulting in alterations to the baseline arable landscape, such change is difficult to predict with any certainty.

DESIGN

9.3.13. The applicant's design strategy in relation to landscape and visual effects is set out in the DAD [APP-0137] which describes the evolution of the design and the project principles that have been used to steer and influence the design of the proposed development. A summary of the decisions made by the applicant and the key alternatives considered can be found in Chapter 4 of this report.

GLINT AND GLARE

9.3.14. The Glint and Glare Study [APP-078] assessed the possible effects of glint and glare from the proposed ground-mounted solar PV development upon road safety, residential amenity, railway infrastructure and operations, and aviation activity.

9.3.15. The following study areas were used for the different receptors:

- An offset of 15km from the proposed development for aerodromes. This included 4 military aerodromes with air traffic control (ATC) towers and 6 general aviation aerodromes without ATC towers.
- An offset of 500m from the proposed development for train drivers that would have a potential view of the solar PV panels. This included a 2.5km section of railway.
- An offset of 1km from the proposed development was used for major national and regional roads. This included sections of the A15, B1191, B1188 and Main Street (Scopwick/ Kirby Green and Timberland Road).
- An offset of 1km from the proposed development was used for residential dwellings. This included 130 dwelling receptors.

9.3.16. The criteria for assessing the magnitude of effect on the different receptor types is set out in the Glint and Glare Study [APP-078] and summarised as follows:

- The magnitude of effect on air traffic control (ATC) towers depends on whether a reflection is predicted to be experienced in practice, the intensity of glare for the solar reflections, and whether a reflection is predicted to be operationally significant in practice or not.
- The magnitude of effect on runway approach paths depends on whether a reflection is predicted to be experienced in practice, the location of glare relative to a pilot's primary field of view, the intensity of glare for the solar reflections, and whether a reflection is predicted to be operationally significant in practice or not.
- The magnitude of effect on railway receptors depends on whether a reflection is predicted to be experienced in practice, the location of the reflecting panel relative to a train driver's direction of travel, and the workload of a train driver experiencing a solar reflection.
- The magnitude of effect on road users depends on whether a reflection is predicted to be experienced in practice and the location of the reflecting panel relative to a road user's direction of travel.
- The magnitude of effect on dwelling receptors depends on whether a reflection is predicted to be experienced in practice and the duration of the predicted effects, relative to thresholds of three months per year and/ or 60 minutes on any given day.

CONSTRUCTION PHASE

9.3.17. Landscape and visual effects during the construction phase would arise from a change of farmland to a construction site, including temporary construction compounds, associated vehicular movements, highways works, underground cable installation, changes to landscape fabric, and the incremental increase in the in-situ infrastructure comprising the proposed development [APP-050].

Landscape Fabric

9.3.18. Construction of the proposed development would require the removal of various lengths of existing hedgerow and hedgerow trees (up to 1,249m in total length) as shown on the Vegetation Removal Parameter Plans (figures 3.11 A to F [APP-060]). The total length of new hedgerow proposed by the

applicant is over 15km in addition to approximately 16 hectares (ha) of structural woodland planting, which the applicant states far exceeds the amount removed during construction. However, the proposed planting will not have reached maturity within the construction phase.

9.3.19. The applicant therefore states that there would be a moderate (significant) adverse effect on existing landscape fabric due to the short-term loss of vegetation in the construction phase.

Landscape Character

9.3.20. The applicant assessed that there would be a major/ moderate (significant) adverse effect on existing landscape character of LCA 7: Limestone Heath. However, the applicant considers that the significant effects are limited to a tightly defined tract of land as follows:

- Land from Heath Lane in the north to just south of Dunston Pit Plantation and extending west of the A15 as far as Wellingore Heath, Temple Bruer and Brauncewell.
- Land to the east of the A15, potentially extending up to Heath Road as far as RAF Digby.
- Land on the eastern side of Heath Road extending up to a series of plantations to the east (Bloxham Woods, Ashby Thorns, Rowston Covert).
- Land between RAF Digby, Scopwick, the B1188 and Rowston Covert.

9.3.21. The applicant assessed that there would be a major/ moderate (significant) adverse effect on existing landscape character of LCA 11: Central Clays and Gravels. The applicant considers that the significant effects are limited to a tightly defined tract of land between the railway which defines the eastern boundary of Springwell East, the B1188 to the west, Blankney Walks Lane to the north, and Trundle Lane and PRoW Scop/739/1 to the south.

9.3.22. The applicant states that any effects on landscape character beyond these tightly defined tracts of LCA 7: Limestone Heath and LCA 11: Central Clays and Gravels would be not significant.

Visual Amenity

9.3.23. It is identified in the assessment that significant adverse visual impacts would be experienced by the following receptors:

- Residents of 31 dwellings in total.
- PRoWs between Blankney, Scopwick and Kirkby Green extending up to Blankney Walks Lane and the railway on the eastern site boundary (including several ‘Stepping Out’ walks).
- PRoW between RAF Digby and B1188 (Footpath R5/1).
- Bloxholm Woods Local Nature Reserve Footpath.
- PRoWs and lanes north-west between A15 and Wellingore Heath including New England Lane and Gorse Hill Lane.
- Spires and Steeples Trail.

- Navenby Lane.
- Minor Roads to Temple Bruer and Thompsons Bottom Farm.
- A15 trunk road.
- B1191 (Heath Road).

OPERATIONAL PHASE

9.3.24. Landscape and visual effects during the operational phase would arise from the introduction of new energy infrastructure into existing agricultural fields and earthworks in the vicinity of springwell substation [APP-050].

Landscape Fabric

9.3.25. In year 1 of operation, there would still be a moderate (significant) adverse effect on existing landscape fabric. By year 10 of operation, the new mitigation planting would have become established and far exceed the amount of hedgerow loss during the construction phase. The applicant is therefore of the view that there would be a moderate (significant) beneficial effect on existing landscape fabric in year 10 of operation.

Landscape Character

9.3.26. New hedgerow and structural woodland planting is proposed throughout Springwell Central and Springwell West which fall within LCA 7: Limestone Heath and throughout Springwell East which lies within LCA 11: Central Clays and Gravels. Also, new wildflower rich grassland is proposed in open fields and field margins as shown on the green infrastructure parameter plans [APP-060].

9.3.27. In year 1 of operation the mitigation planting will not have fully established so the major/ moderate (significant) adverse effect identified in the construction phase would remain for both LCA 7: Limestone Heath and LCA 11: Central Clays and Gravels within the same tightly defined tracts of land.

9.3.28. In year 10 of operation, the applicant expects that the new planting would restrict the extent of effects on landscape character. The applicant also states that even where it does not entirely screen the proposed development, the new planting would notably soften its external appearance and would therefore reduce the scale of landscape change.

9.3.29. In relation to LCA 7: Limestone Heath in year 10 of operation, and notwithstanding the fact that the scale of landscape change would be less than in year 1, the applicant assessed that the major/ moderate (significant) adverse effect would remain for the same tightly defined tracts of land referenced above.

9.3.30. However, in relation to LCA 11: Central Clays and Gravels in year 10 of operation, the applicant assessed that the effect would be reduced to a moderate (not significant) adverse effect. The applicant assessed the moderate effect to be not significant as the magnitude of the impact (particularly the much more localised extent of the impact) was judged to have a defining influence on the overall significance rating.

Visual Amenity

9.3.31. The applicant assessed that the residents of 25 dwellings would experience significant visual effects during year 1 but in most cases by year 10 these effects would reduce in significance due to the establishment of mitigation and by year 10 would be not significant. The applicant considered it likely that significant visual effects would remain at the Windmill on Heath Road as views are available from elevated rooms within the converted mill.

9.3.32. In year 1 of operation, it is identified in the assessment that significant adverse visual effects would also be experienced by the following receptors:

- PRoWs between Blankney, Scopwick and Kirkby Green extending up to Blankney Walks Lane and the railway on the eastern site boundary (including several 'Stepping Out' walks).
- PRoW between RAF Digby and B1188 (Footpath R5/1).
- Bloxholm Woods Local Nature Reserve Footpath.
- Minor Roads to Temple Bruer and Thompsons Bottom Farm.
- PRoWs and lanes north-west between A15 and Wellingore Heath including New England Lane and Gorse Hill Lane.
- Spires and Steeples Trail.
- A15 trunk road.

9.3.33. By year 10 of operation, once the mitigation planting has become established, the applicant assessed that significant adverse visual effects would be experienced by the following receptors:

- PRoWs between Blankney, Scopwick and Kirkby Green extending up to Blankney Walks Lane and the railway on the eastern site boundary (including several 'Stepping Out' walks).
- A15 trunk road.

DECOMMISSIONING PHASE

9.3.34. Landscape and visual effects during the decommissioning phase would arise from a change of farmland to a decommissioning site, including temporary decommissioning compounds, associated vehicular movements, highways works, underground cable removal, and the incremental decrease in the in-situ infrastructure comprising the proposed development [APP-050].

Landscape Fabric

9.3.35. The applicant states that no additional hedgerow removal would be necessary to facilitate highway works and that the removal of cables, where necessary, could be undertaken without removal of hedgerows. The applicant therefore assessed that there would remain a moderate (significant) beneficial effect on existing landscape fabric in the decommissioning phase which would be permanent as the proposed hedgerow and structural woodland planting would remain after the proposed development is decommissioned/ removed.

Landscape Character

9.3.36. Similarly to the construction phase, the applicant identified that there would be major/ moderate (significant) adverse effect on existing landscape character for the same tightly defined tracts of land of both LCA 7: Limestone Heath and LCA 11: Central Clays and Gravels.

Visual Amenity

9.3.37. The applicant assessed that significant adverse visual effects would be experienced by the receptors listed below. Fewer receptors would experience significant effects compared to the construction phase due to the established hedgerow and structural woodland planting.

- Four residential properties (Scopwick Low Field Farm, The Windmill and Scopwick Mill on Heath Road and Gorse Hill Farm)
- PRoWs between Blankney, Scopwick and Kirkby Green extending up to Blankney Walks Lane and the railway on the eastern site boundary (including several 'Stepping Out' walks).
- PRoWs and lanes north-west between A15 and Wellingore Heath including New England Lane and Gorse Hill Lane.
- A15 trunk road.

GLINT AND GLARE

9.3.38. The assessment of glint and glare effects is contained in the applicant's Glint and Glare Study [APP-078]. This finds, in summary, solar reflections towards four aerodromes are considered to be operationally accommodatable as described below, and a low impact is predicted. No significant effect is predicted in relation to road safety, residential amenity, or railway operations.

Aviation

9.3.39. Solar reflections with intensities 'potential for temporary after-image' (known as yellow glare) are predicted towards the following:

- Sections of the circuit for runway 01/19 at RAF Cranwell.
- Sections of the splayed approach path and final sections of the visual circuits for runway 08/26 at Temple Bruer Airfield.
- Sections of the splayed approach path for threshold 27 and final sections of the visual circuits for runway 09/27 at Cottage Farm Airfield.
- The 1-mile splayed approach paths for thresholds 09 and 27, normal circuit, and bad weather circuit for runway 09/27 at Hill Top Farm Airfield.

9.3.40. However, the applicant considers there are mitigating factors presented in the glint and glare study that decrease the level of impact, and it is considered that instances of yellow glare would be operationally accommodatable. Therefore, no significant effect is predicted, and mitigation would not be required.

9.3.41. Elsewhere, geometrically possible solar reflections are predicted to be of an acceptable glare intensity or would occur outside a pilot's primary field of

view and therefore not considered significant. No effect is predicted at any of the ATC towers within the study area.

Railway

9.3.42. The applicant predicts that screening in the form of existing vegetation would significantly obstruct views of reflecting panels, such that a solar reflection would not be experienced by train drivers. Therefore, no impact is predicted, and mitigation would not be required.

Road Users

9.3.43. The applicant predicts that screening in the form of existing and proposed vegetation, buildings and/ or intervening terrain would significantly obstruct views of reflecting panels, such that solar reflections would not be experienced by road users. However, the Glint and Glare Study identified a need for mitigation along a 700-meter section of the A15, where hedgerows will be infilled and maintained at a height of at least 3m. Until these hedges grow to full height, the applicant is proposing to install temporary screening which would be required for approximately 3 years following the construction phase.

Dwellings

9.3.44. Screening in the form of existing and proposed vegetation, buildings and/ or intervening terrain is predicted to significantly obstruct views of reflecting panels for 99 of the 103 residential dwellings assessed, such that solar reflections will not be experienced.

9.3.45. For the remaining four dwellings, marginal views from above ground floor levels are considered possible. However, the duration of effects is predicted to be experienced for less than three months per year and less than 60 minutes on any given day. Therefore, a low impact is predicted for these four dwellings and not considered significant, and mitigation would not be required.

CUMULATIVE EFFECTS

9.3.46. The applicant set the zone of influence for the cumulative landscape visual impact assessment at 10km to account for the 5km study area of the proposed development alone and any potential sequential cumulative visual effects on users of linear routes (roads or long-distance footpaths).

9.3.47. As set out in ES Chapter 16 [APP-056] the applicant undertook an assessment of the inter-project cumulative landscape and visual effects for the following scenarios:

a. The proposed development with the National Grid Navenby Substation (NGNS) only.
b. The proposed development with either Navenby Heath BESS or RAF Digby development individually.
c. The proposed development with NGNS and Navenby Heath BESS.

d. The proposed development with NGNS and the proposed RAF Digby office and training building.
e. The proposed development with NGNS, Navenby Heath BESS and the proposed RAF Digby office and training building.

9.3.48. In relation to scenario a, the applicant concluded that there would be the following significant cumulative residual effects:

- Construction Phase - If both the proposed development and the proposed NGNS were constructed at the same time, the major/ moderate (significant) residual adverse effect of the proposed development alone on landscape character across a defined tract of the landscape within LCA 7: Limestone Heath would extend further north. The significant effect would extend approximately up to the B1202. The moderate adverse (significant) effect of the proposed development alone on visual amenity for users of the A15 would also extend further north to the B1202.
- Operational Phase (both year 1 and year 10) – As with the construction phase, the major/ moderate (significant) residual adverse effect of the proposed development alone on landscape character within LCA 7: Limestone Heath would extend further north. The significant effect would extend approximately up to the B1202. The moderate adverse (significant) effect of the proposed development alone on visual amenity for users of the A15 would also extend further north to the B1202.

9.3.49. In relation to scenario b, the applicant concluded that there would be a slight additional magnitude of impact (minor adverse) on the landscape character of LCA 7: Limestone Heath and on the visual amenity of users of Navenby Lane, B1191 (Heath Road) and PRoWs and lanes between the B1191 (Heath Road), Bloxholm Lane and Green Man Lane extending up to the A15. This would be a relatively small additional effect in relation to the proposed development, and no significant cumulative landscape or visual effects were anticipated.

9.3.50. In relation to scenarios c, d, and e, the applicant concluded that any additional inter-project cumulative effects on landscape character and visual amenity would be only marginally greater than if the proposed development and the NGNS were constructed together. Therefore, any negligible inter-project cumulative effects in these scenarios in addition to those described under scenario a would be not significant.

9.3.51. See Chapter 11 of this report for a discussion on the intra-project effects of landscape and visual impacts and other impacts on population receptors.

9.4. ISSUES CONSIDERED DURING THE EXAMINATION

LANDSCAPE FABRIC

9.4.1. At ExQ1.10.17 [PD-007] the ExA questioned the applicant as to whether the proposed planting can be considered a benefit of the project given that it is proposed to provide mitigation screening for a large-scale solar development which itself has an adverse effect on the landscape.

9.4.2. The applicant responded [REP1-071] that whilst the new planting is principally proposed to mitigate adverse visual effects, the establishment of this vegetation would also have a beneficial effect on the landscape fabric. The applicant does not propose to remove the new planting during decommissioning, and therefore at decommissioning, the applicant considered that the newly established mitigation planting would positively contribute to the green infrastructure that permeates the order limits.

EXA'S CONCLUSIONS ON LANDSCAPE FABRIC

9.4.3. The ExA agrees with the applicant's conclusions that in the construction phase and year 1 of operation, there would be a moderate adverse effect on the landscape fabric which would be significant. However, once established, the ExA agrees that the extent of new woodland, trees and hedgerows would have a permanent moderate beneficial effect which would be significant and would remain following the decommissioning of the proposed development.

LANDSCAPE CHARACTER

Wider Landscape Character and the Cumulative Impact of Solar Development

9.4.4. The local authorities raised concerns in the LIRs [REP1-088] [REP1-102] regarding the cumulative landscape and visual effects on the national, county and regional landscape character areas. The concern was that the landscape character of the wider area would be completely altered through land use change and the introduction of energy infrastructure in an area that is predominantly agricultural.

9.4.5. Many interested parties (IP) were also concerned about the cumulative impact on landscape character, for example [RR-306] raised concern that effects will be experienced across a large geographic area both from the proposed development alone and cumulatively with other neighbouring Nationally Significant Infrastructure Project (NSIP) scale solar energy schemes and associated infrastructure. An overriding concern from IPs [too many to list] was that a notable area of rural North Kesteven will be transformed from an agricultural landscape into an industrialised landscape.

9.4.6. In response to ExQ1.10.3 [PD-007], LCC stated [REP1-089] that the scheme combined with other solar development, if built, would require the update of any published landscape character assessment, including at a national level (NCA's), so as to include large scale solar as a defining land use characteristic as well as agriculture. And that this would be a clear and marked change to landscape character.

9.4.7. In response to the numerous concerns raised, at Deadline (D) 2 the applicant [REP2-023] maintained that the effects on landscape character would be localised to tightly defined tracts of the landscape character areas as explained in the ES. The applicant explained that the area of land cover of the above ground structures of the proposed development combined with the NGNS relative to the area of NCA47 would be 1.15%. At D3 [REP3-075], the applicant also provided percentage figures and updated plans for the area of

solar development within LCT, LCA's 7 and 11 including all existing and proposed solar developments both above and below the threshold for NSIP development as requested by the ExA (see figures 6 and 7 below).

Figure 6: Cumulative Solar Development and National Character Area 47

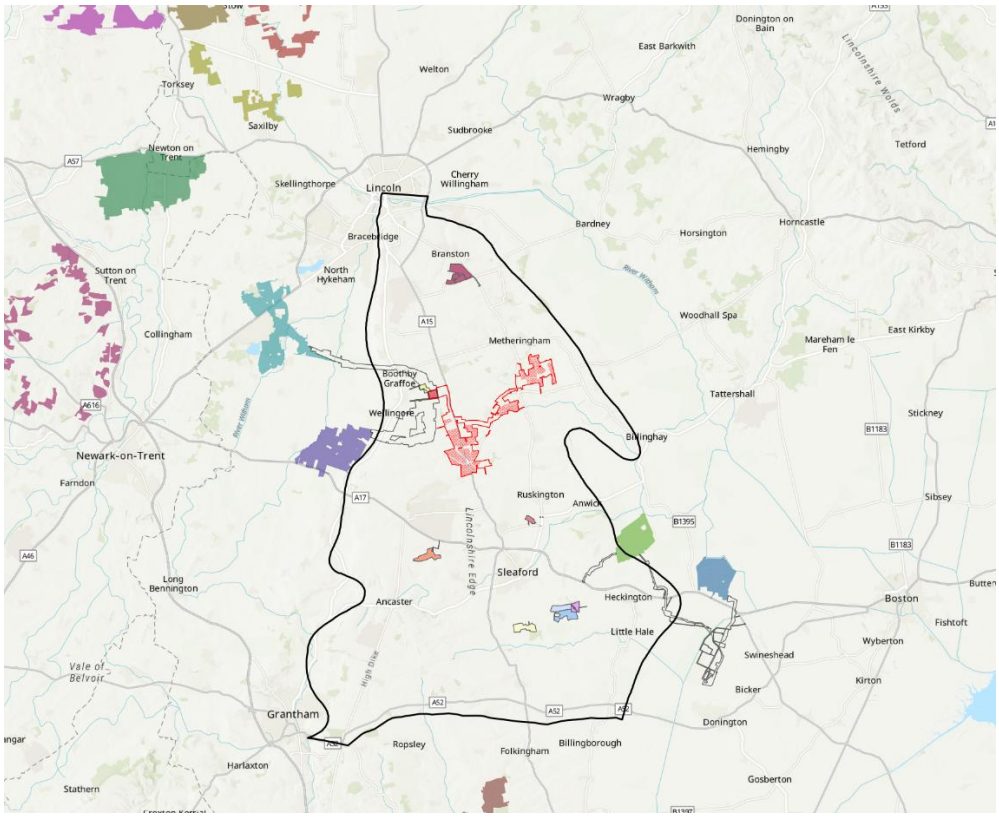
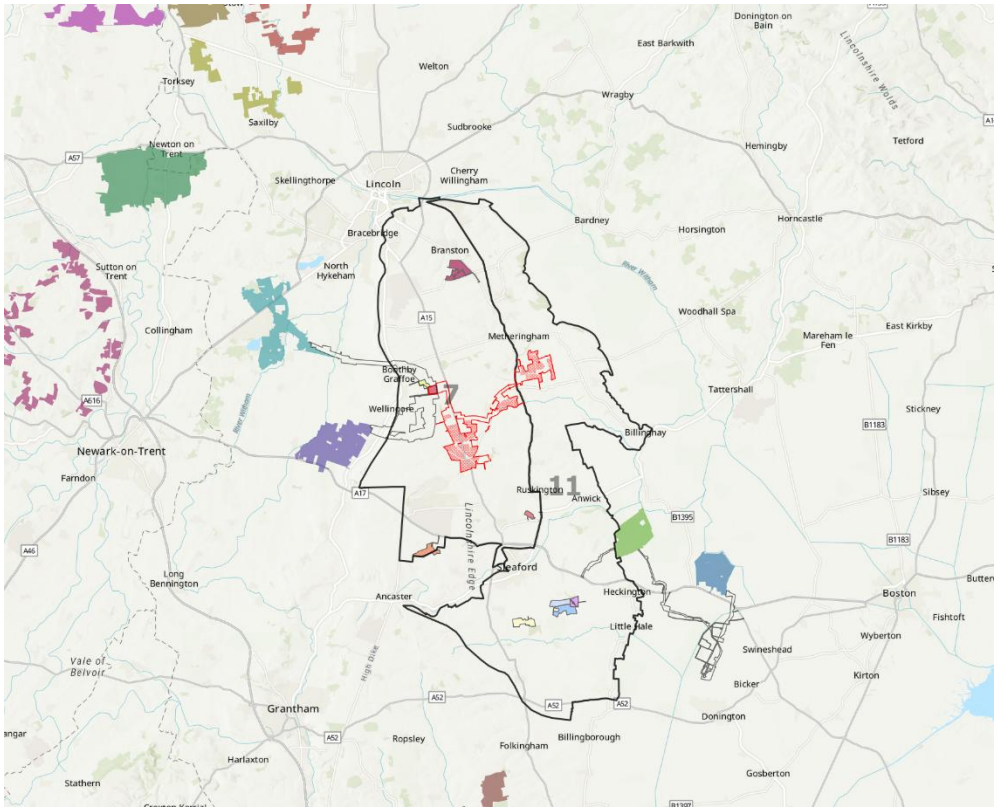


Figure 7: Cumulative Solar Development and Landscape Character Areas 7 and 11



9.4.8. The ExA raised the matter for discussion at Issue Specific Hearing (ISH) 2 [EV5-002] [EV5-004]. The local authorities explained that they consider that looking at isolated character areas tells some of the story, but their concern was the wider extent of landscape impact from solar developments across multiple NCA's within the county. The local authorities pointed out that these NCA's share common attributes and the overriding characteristic is agricultural land use which would remain a defining characteristic, however over a short period of time large-scale solar will undoubtably become a widespread characteristic in the region.

9.4.9. At D3, the local authorities [REP3-079] [REP3-080] expanded on their oral submissions at ISH2 explaining that the approach they were promoting would be to extract common landscape attributes of the area from the multiple character area assessments that cover the region, enabling a reasoned, evidence-led baseline, and subsequent assessment of cumulative landscape effects across the wider county area. Considering this approach, the local authorities judged that large scale solar, battery and energy infrastructure would become a distinctive key characteristic across the region as a whole and that this land use change would directly affect the perceived openness, and rural tranquillity.

9.4.10. The applicant responded at D4 [REP4-048] [REP4-049] that it did not consider it appropriate to attempt to define some generalised characteristics for the county of Lincolnshire as a whole and assess effects against them. The applicant's position was that selectively extracting common characteristics from published descriptions of multiple different district level landscape character areas would be problematic, as the character areas, by

definition, exhibit different landscape characteristics. The applicant stated that the NCA profiles referred to in the ES [APP-050] provide a more appropriate 'regional scale' unit of landscape character description based on geographical variations in character rather than administrative boundaries.

9.4.11. The applicant acknowledged [REP3-075] that in any update to the published landscape character descriptions at both local and national level, solar farm development would likely be recorded as a new feature of the landscape. However, the applicant did not consider that solar development would become a key characteristic of the landscape character [EV5-002]. Furthermore, at D4 [REP4-049] the applicant stated that rather than it being a case of there being a significant effect on landscape characteristics such as openness or tranquillity across the Lincolnshire region as a whole as a result of land use change, it would be more appropriate to think of there being pockets or tracts of the region where effects would be significant.

9.4.12. At the close of the examination there remained disagreement between the parties as set out in the final statements of common ground (SoCG) with NKDC [REP5-022] and LCC [REP5-021].

Springwell East in Year 10 of Operation

9.4.13. The local authorities recommended in the LIRs [REP1-088] [REP1-102] that the conclusion that the effect on the landscape character of Springwell East is not significant in year 10 of operation is considered further during the examination.

9.4.14. The matter was discussed at ISH2 [EV5-002] [EV5-003] [EV5-004] [EV5-005]. The local authorities explained their position that the land use change of a key characteristic in LCA 11 from agricultural land to solar development should still be significant in year 10 of operation. They pointed out that a change to the landscape doesn't have to be seen to have an effect.

9.4.15. The applicant responded by explaining how the proposed development has been designed to limit the effects on landscape character, specifically highlighting project principles 2.1 to 2.5 [REP3-028]. The applicant stated that by year 10 of operation there would be a considerable amount of new planting within Springwell East which would limit the extent of area over which the solar arrays would be visible and notably soften the external appearance of the development. The applicant maintained its position that the reduction in both the extent and the scale of the effect on LCA 11 reduces the level of landscape character effect to not significant by year 10 of operation.

9.4.16. At the close of the examination there remained disagreement between the parties as set out in the final SoCG with NKDC [REP5-022] and LCC [REP5-021].

EXA'S CONCLUSIONS ON LANDSCAPE CHARACTER

9.4.17. The landscape character of the area is clearly well appreciated and enjoyed by local residents and recreational users. The proposed development is large

in scale and would introduce industrial components into an existing agricultural landscape.

9.4.18. With regards to the assessment of cumulative effects on landscape character, the ExA considers that the NCA scale provides the appropriate regional scale unit of landscape character description to assess the cumulative impact of solar development rather than LCC and NKDC's promoted approach of defining a set of generalised characteristics for the county of Lincolnshire as a whole as a landscape character baseline.

9.4.19. However, the ExA does agree with LCC [REP1-089] that cumulative solar and related development would likely require the update of any published landscape character assessment, including at the level of NCA47, so as to include large scale solar as a defining land use characteristic as well as agriculture.

9.4.20. The ExA does not consider that this change to landscape character from the proposed development alone would significantly detract from the agricultural characteristics of the landscape outside of the tightly defined tracts of land where the applicant assessed there would be significant adverse effects. However, the ExA does consider that the addition of cumulative solar and solar related development (including non-NSIP schemes) as a new defining land use characteristic represents a clear and marked change to the landscape character of NCA47 which would result in a moderately adverse (significant) effect.

9.4.21. The ExA agrees with the applicant that in year 10 of operation, the geographical extent of the landscape character effect within LCA 11 would be much reduced due to the establishment of the proposed mitigation planting. The ExA is therefore of the view that whilst there would be a moderate adverse effect on landscape character from the proposed development alone within LCA 11, it would be not significant.

VISUAL AMENITY

Public Rights of Way and the Stepping Out Network

9.4.22. Many IPs [too many to list] raised concerns regarding the visual effects on users of PRoWs, including potential adverse effects of the mitigation screening planting blocking views of open countryside. For example [RR-306] states that the proposed mitigation planting would merely serve to partially deny/ truncate the extent of views available from visual receptors via 'green walling' landscaping measures designed to substantially restrict visibility across the wider landscape character areas.

9.4.23. The ExA asked the applicant in ExQ1.10.9 [PD-007] how the impact on the ability of users to appreciate the surrounding landscapes had been taken into consideration in the assessment. The applicant clarified in response [REP1-071] that where views from a PROW across a previously open field would be restricted by new mitigation planting that this has been treated as an adverse effect, even though it is likely that not all people would consider this to be a reduction in visual amenity. When compared to the impact in year 1 of

operation, this was typically assessed to be reduced a magnitude of adverse change at year 10.

9.4.24. The ExA questioned the applicant further at ISH2 [EV5-002] [EV5-004] as to whether the enclosure of footpaths on both sides is an appropriate approach to landscape design considering that the majority of existing footpaths follow the perimeter of fields and have open views across the landscape. The applicant confirmed that there are relatively few sections of PRoW where they would have solar development on both sides. Furthermore, in all cases where there would be solar development on both sides, the applicant explained that it had embedded an offset of at least 15m along those walking routes into the proposed layout creating a wide walking corridor that wouldn't feel oppressive and enclosed.

Sequential and Cumulative Effects on Visual Receptors Travelling Through the Wider Landscape

9.4.25. At D3, the local authorities [REP3-079] [REP3-080] expanded on their previous submissions relating to the landscape and visual effects on the wider county area. Their concern was that extensive land use change from the proposed development and other solar developments would be an issue when experienced sequentially for visual receptors travelling through the wider landscape. They stated that repeated views and presence of large-scale solar would increase the susceptibility of receptors to changes in views through visual fatigue in which viewers experience a diminishing capacity to absorb or tolerate repeated or similar visual stimuli along routes.

9.4.26. The local authorities consider this would be a problem both for receptors traveling long distances along road corridors and users of PRoW who would experience significant sequential adverse effects when travelling through the area of the proposed development. The local authorities go on to say that users of PRoW may subsequently travel on rights of way or other linear routes with views of other solar schemes, and therefore users could experience sequential visual effects across two or more schemes, even in year 10 of operation when mitigation should have matured.

9.4.27. At D4, the applicant [REP4-049] pointed out that sequential cumulative visual effects in LVIA are usually discussed in relation to recognised linear routes for example a specific A-road, a long distance footpath, cycle route, canal or railway. The applicant states that all of the main connections in the landscape run north to south along the central plateau and that none of the recognised linear routes pass through any other operational or proposed solar farms between at least Lincoln and Sleaford with the exception of the B1188 which would offer a glimpsed view of Branston Solar Farm in the winter months.

9.4.28. At D5, an IP [REP5-036] commented that whilst the A-roads (A15 and A46) run on a linear north/ south alignment, many residents do travel across the county along the non-linear minor roads in an east/ west direction. The IP gives an example of a route that could be taken from east to west along

minor roads which would take in views of different solar development and BESS schemes.

9.4.29. The applicant did not have an opportunity to respond to D5 submissions as that was the final deadline. The applicant had acknowledged in its D4 submission [REP4-049] that it would be possible to undertake a journey by car or along a series of interconnected footpaths from east to west passing the proposed development and then passing over the Lincoln Cliff where there may be views of Leoda or Fosse Green DCO solar farms. However, the applicant stated in its D4 submission that linkages east to west are limited and there are no recognised walking or cycling routes which would encourage this. The applicant also stated that there would be a considerable break in the journey between views of the different schemes. Therefore, the applicant maintained its position that it did not consider there would be any significant sequential visual effects in association with the proposed development.

9.4.30. At the close of the examination there remained disagreement between the parties as set out in the final SoCG with NKDC [REP5-022] and LCC [REP5-021].

Residential Visual Amenity

9.4.31. Some IPs raised concern regarding the impact of the proposed development on the residential visual amenity of their properties, for example [RR-107] and [RR-327].

9.4.32. The applicant was questioned by the ExA at ISH1 [EV4-010] in relation to the methodology and findings of the Residential Visual Amenity Assessment (RVAA) [APP-111]. The applicant reiterated that the residential visual amenity threshold would not be exceeded for any residential property and that this conclusion applied to both year 1 and year 10 of operation.

9.4.33. The study area for the RVAA was a 200m radius from the proposed development and therefore The Windmill, a residential property on Heath Road, was not included within the RVAA. However, the ExA noted on the accompanied site inspection (ASI) [EV9-001] that there was clear intervisibility at a number of points along the proposed permissive footpath through fields Bk04, Bk06 and Rw01 with the upper floor windows of The Windmill.

9.4.34. The applicant was asked at ExQ2.10.5 [PD-010] to justify why the property had not been included in the RVAA. The applicant responded that whilst there would be significant adverse effects on views from The Windmill in year 1 and 10 of operation, under no circumstances could the effects be considered to be so overbearing or dominating at the property that the resulting visual effect would widely be regarded to render the property an unpleasant or unattractive place to live and therefore the effect on The Windmill would not exceed residential visual amenity threshold.

EXA'S CONCLUSIONS ON VISUAL AMENITY

9.4.35. The ExA considers that the applicant's assessment has appropriately considered the potential adverse effects of the mitigation screening planting blocking views of open countryside and correctly identifies the likely significant effects on users of PRoW and the stepping out network.

9.4.36. The ExA acknowledges that it is possible that sequential visual effects across two or more solar developments could be experienced by individual visual receptors travelling through the wider landscape on PRoW, road corridors or a combination of both. However, the ExA agrees with the applicant that there would be a considerable break in the journey between views of the different schemes and therefore any adverse effect would not be significant.

9.4.37. The ExA considers that the embedded mitigation measures to offset development from dwellings and the establishment of new structural planting to screen views from sensitive receptors would ensure that the residential visual amenity threshold is not exceeded for any of the properties assessed. Therefore, the ExA does not see any reason to disagree with the applicant's conclusions that the proposed development would not have an overbearing effect on the visual amenity experienced by residents of any properties.

GLINT AND GLARE

9.4.38. The ExA did not have sufficient information on the visual impact, the proposed duration and design of the temporary hoarding for glint and glare effects on road users. The matter was raised at ISH2 [EV5-002] [EV5-004]. The applicant confirmed in its written summary of oral submissions at D3 [REP3-075] that the visual impact of the hoarding had been taken into account as an operational effect up until year 10 of operation although it would not be needed for this length of time. The applicant provided an updated photomontage showing the location of the hoarding as close as possible to the solar panels and agreed an additional design commitment [REP3-027] with the local authorities to ensure that the colours and materials of the hoarding would be sensitive to its context.

9.4.39. The ExA noted that table 13 of the Glint and Glare Study [APP-078] stated that proposed vegetation would provide screening for a number of residential receptors but the duration of effects was only provided 'with consideration of screening'. The ExA questioned the applicant at ISH2 [EV5-002] [EV5-004] whether temporary hoarding will be required to mitigate glint and glare effects on any residential receptors prior to the establishment of planting. The applicant confirmed that temporary screening would not be required, the proposed vegetation will provide screening beyond what is required to mitigate significant adverse effects.

9.4.40. An IP [RR-337] raised concern about the potential effects of the proposed development on a registered microlight aircraft site. Further concerns were raised by IPs at D1 [REP1-159] and D3 [REP3-107] [REP3-115]. However, the ExA notes that Civil Aviation Authority (CAA) have not raised any

concerns in the examination and the glint and glare assessment has considered the airfield as set out above in paragraphs 9.3.39 – 9.3.41 of this report.

EXA'S CONCLUSIONS ON GLINT AND GLARE

9.4.41. The ExA sees no reason to disagree with the applicant's assessment that potential solar reflections towards aerodromes would be operationally accommodatable and that there would be no significant adverse effects from glint and glare on road safety, residential amenity, or railway operations. The ExA is content that the visual impact of the temporary hoarding was taken into account in the applicant's assessment of the impact of the proposed development on visual amenity.

OTHER MATTERS

Proposed Screening Planting and the Ecological Steering Group

9.4.42. At ExQ1 [PD-007] the ExA asked the applicant for further information on the infilling of existing hedgerows (ExQ1.10.18), the performance criteria for the successful establishment of planting for visual screening (ExQ1.10.21) and the securing mechanism for the detail of the proposed planting (ExQ1.10.20).

9.4.43. In response the applicant updated the outline Landscape and Ecology Management Plan (oLEMP) [REP1-064] providing the requested details on the performance criteria and monitoring regime for proposed planting as well as additional wording to state that each Landscape and Ecology Management Plan (LEMP) will include details of the location, number, species, size and planting density of any proposed planting. The applicant confirmed that the measures outlined in the oLEMP would be secured by requirement (R) 8 of the draft Development Consent Order (dDCO) [REP1-006].

9.4.44. By the close of examination, the applicant, LCC and NKDC had agreed draft terms of reference for an ecological steering group (ESG). Matters relevant to landscape and visual effects in the remit of the ESG include the following:

- To monitor the progress and implementation of the detailed LEMP(s).
- To provide communication on landscape and biodiversity matters between the proposed development and relevant stakeholders.
- To consider and suggest remedial habitat management measures to be implemented when habitat creation and enhancement are not meeting the required condition.
- To undertake a compliance audit of the LEMP(s) against key performance indicators.

9.4.45. A funding commitment for the operation of the ESG was set out in a draft section (s)106 agreement [REP5-029]. Although the local authorities indicated that they were satisfied with the proposed funding commitment for the ESG, the s106 agreement had not been signed at the close of the examination as there was disagreement between the parties regarding a funding commitment for monitoring of biodiversity net gain measures (refer to

Chapter 6 of this report for further information). Therefore, the ExA cannot take into account the draft s106 funding commitment in its recommendation.

9.4.46. The Secretary of State (SoS) may wish to ask the parties for an update on discussions. The ExA considers that the ESG funding commitment would be beneficial but would not materially change the ExA's conclusions set out below as the mitigation and monitoring measures for proposed screening planting are adequately secured by the oLEMP [REP5-013] and the dDCO [REP5-004].

Project Principles and Design Commitments

9.4.47. At ExQ1.10.10 [PD-007] the ExA asked the applicant how the project principles set out in the DAD [APP-0137] were secured if the DAD or the project principles were not secured by R5 of the dDCO [APP-012]. The applicant confirmed [REP1-071] that the project principles are embedded within a range of different documents and plans to be certified within Schedule 13 of the dDCO and pursuant to the requirements in Schedule 2 of the draft DCO. Therefore, the project principles themselves are not required to be secured in R5 of the dDCO. The ExA are satisfied with this approach.

9.4.48. At ExQ1.10.11 [PD-007] the ExA questioned the applicant on its design process for the external appearance of Work Numbers 2 to 4. The applicant highlighted specific design commitments that would minimise the adverse landscape and visual effects of these components and stated that within the constraints set by the design commitments, the exact colour and material is highly unlikely to have any discernible bearing on visual impact or the outcome of the LVIA.

9.4.49. The matter was discussed further at ISH2 [EV5-002] [EV5-003]. The ExA gave the example of the broad number of options for colours and materials included within the design commitment 17 [APP-0138] and asked for evidence to demonstrate that these colour and material options would be appropriate to their context which the applicant took as an action point from the hearing. At D3 the applicant submitted an updated design commitments document [REP3-030] which included a further commitment that the colour scheme and materials for built components of the proposed development would be sensitive to its context. The local authorities indicated [REP4-051] [REP4-053] that they were content with the updated design commitments.

9.4.50. The ExA is satisfied that the design process set out in the DAD [REP3-028] and the design commitments [REP3-030] secured in R5 of the rDCO demonstrate that design decisions have been made by the applicant to minimise the adverse landscape and visual effects. This is achieved through changes to the layout of the proposed development, proposals for new screening vegetation, and specific design commitments relating to the external appearance of individual components.

9.5. EXA'S OVERALL CONCLUSIONS ON LANDSCAPE AND VISUAL IMPACT

9.5.1. Although the existing site and its surroundings are not covered by any statutory protected landscape designation, they are clearly well appreciated and enjoyed by local residents and recreational users. The proposed development is large in scale and extent and would result in considerable change to the existing landscape character and visual amenities of the area throughout the lifetime of the development.

9.5.2. NPS EN-1 recognises that national significant infrastructure projects are likely to have adverse landscape and visual effects (paragraphs 5.10.5 and 5.10.13). It is clear to the ExA that the layout of the proposed development has taken into account and sought to minimise adverse effects, for example, through the retention of existing vegetation, offsets from settlements, roads and PRoW, and extensive proposed structural planting.

9.5.3. The ExA notes that the proposed planting once established would have a permanent beneficial effect on the landscape fabric. The proposed planting is also likely to be successful in terms of mitigating some of the adverse effects on visual amenity and landscape character, though it is acknowledged that it would also impinge on the existing open characteristics of parts of the order limits and obstruct some existing views of the countryside from PRoW.

9.5.4. Specific landscape and visual mitigation measures are set out in the DAD [REP3-028], design commitments document [REP3-030] and various outline management plans, such as the oLEMP [REP5-013]. The ExA is satisfied that the mitigation measures are appropriately secured through R5 (detailed design approval), R8 (landscape and ecology management plan), and R9 (fencing and other means of enclosure) of the rDCO. Generally, the embedded and additional mitigation measures proposed are reasonable in seeking to minimise the adverse effects, though significant residual adverse landscape and visual effects would still result.

9.5.5. The ExA agrees with the conclusions of the ES in relation to the residual effects of the proposed development alone. These are summarised in paragraphs 9.3.17 to 9.3.45 above.

9.5.6. In relation to cumulative effects, as set out above in paragraph 9.4.36 of this chapter, the ExA found that there would be a considerable break in the journey between views of different solar schemes and therefore any cumulative adverse effect would not be significant in terms of visual amenity. However, in relation to landscape character, as set out above in paragraphs 9.4.18 to 9.4.20 of this chapter, the ExA found that the nature and the magnitude of the change of land-use, when considered cumulatively with other solar and solar related development, would have a moderately adverse (significant) effect on the landscape character of NCA47.

9.5.7. The ExA concludes that no significant effects would result in relation to glint and glare from the proposed development which would be satisfactorily in

accordance with NPS EN-3. Matters relating to glint and glare are therefore a neutral consideration in the overall planning balance.

9.5.8. The ExA is content that the applicant has generally taken satisfactory account of functionality and good design in relation to landscape and visual impacts as far as is reasonably possible at this stage of design development.

9.5.9. The ExA concludes that overall, the applicant's approach to minimise the harm, including the proposed mitigation, would be in general accordance with NPS EN-1 and EN-3. The residual harm is balanced against the benefits of the proposed development in the overall planning conclusions in Chapter 16 of this report in accordance with paragraph 5.10.35 of NPS EN-1.

9.5.10. Notwithstanding the measures to minimise and mitigate the adverse impact of the proposed development, the extent of residual adverse effects on both the landscape character and the visual amenity of sensitive receptors leads the ExA to ascribe great weight against the making of the Order in relation to landscape and visual effects.

10. NOISE AND VIBRATION

10.1. INTRODUCTION

10.1.1. This chapter considers the effect of the proposed development in relation to noise and vibration.

10.2. POLICY BACKGROUND

General Considerations

NPS EN-1

5.12.6	Matters that should be included in a noise assessment.
5.12.13	Mitigation of operational and construction noise.
5.12.14	Example mitigation measures.
5.12.15	Good design, plant selection, and containment of noise within buildings.
5.12.17	Grounds for granting consent.

NPS EN-3

2.10.139	Vehicle movements during the construction stage.
2.10.140	Requirements to control vehicle movements.

Other Policies

10.2.1. The Noise Policy Statement for England (NPSE) sets out the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It provides guidance on defining 'adverse effects' by reference to the No Observed Effect Level (NOEL), Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL). It states that the aims should be to avoid noise levels above SOAEL and take all reasonable steps to mitigate noise effects where development noise levels are between LOAEL and SOAEL.

10.2.2. The Control of Pollution Act 1974 contains powers for local authorities to deal with noise and vibration from construction and demolition sites.

10.2.3. The Local Impact Report (LIR) provided by North Kesteven District Council (NKDC) [REP1-102] identified the following relevant local policies in the Central Lincolnshire Local Plan 2023-2043 (CLLP):

- Policy S14 - Renewable Energy.
- Policy S53 - Design and Amenity.
- Policy S66 - Trees, Woodland and Hedgerows.

10.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

10.3.1. The applicant's assessment of matters relating to noise and vibration is largely contained within Chapter 12 of the Environmental Statement (ES) [APP-052] and accompanying figures [APP-068] and appendices [APP-120] [APP-121] [APP-122].

10.3.2. The study area for the applicant's assessment of noise impacts extends to those sensitive receptors located in close proximity to the order limits. The applicant explains that receptors assessed have been derived using British Standard (BS) 4142, BS 5228-1, BS 5228-2, Design Manual for Roads and Bridges (2020), and Institute of Environmental Management and Assessment (IEMA) Guidelines for Environmental Noise Impact Assessment (2014). The receptor nearest and/ or most potentially affected was considered to represent the worst-case scenario for a single or closely located group of receptors.

10.3.3. The applicant's methodology for the assessment of noise and vibration effects is set out in section 12.4 of ES Chapter 12 [APP-052].

10.3.4. The applicant's justification for scoping matters in/ out of the assessment can be found in tables 12.3 and 12.4 of ES Chapter 12 [APP-052]. The receptors and matters that were scoped into the applicant's assessment are as follows:

- Noise from construction and decommissioning activities.
- Noise from the operational proposed development.
- Noise from construction and decommissioning traffic.

10.3.5. Effects related to vibration were scoped out for all phases as the applicant considered that sensitive receptors were located far enough away that vibration levels are expected to cause low impact or less. Noise impacts along public rights of way (PRoW) were scoped out due to the transient and temporary nature of users along PRoW, and the proposed distance between PRoW and equipment.

10.3.6. The existing baseline noise survey results can be found in Appendix 12.1 of the ES [APP-052]. On the basis that the majority of the proposed development is located within a rural setting, there is generally not expected to be significant changes to the baseline conditions in the future.

10.3.7. The applicant states that where an effect is assessed as 'negligible' or 'minor' in environmental impact assessment (EIA) terms, this is considered to achieve the LOAEL within NPSE.

CONSTRUCTION PHASE

10.3.8. The applicant concludes that noise levels from all construction activities would not exceed 65 decibels (dB) LAeq,T at any of the receptors considered by adopting the control measures referenced below. LAeq,T is

the A-weighted (adjustment to reflect how a noise is perceived by the human ear), equivalent sound level over a specific time period. The applicant considers this would result in a minor adverse (not significant) effect.

10.3.9. The applicant assessed there would be a short term minor adverse (not significant) effect due to a predicted increase in baseline traffic noise levels by less than 3dB due to construction traffic. The applicant considers this would result in minor adverse (not significant) effect.

10.3.10. Measures to minimise noise impacts at receptors are detailed in the outline Construction Environmental Management Plan (oCEMP) [APP-0140] and secured by requirement (R) 12 of the draft Development Consent Order (dDCO) [APP-012].

10.3.11. The applicant's proposed construction working hours (set out in the oCEMP) would be from 7am to 7pm Monday through Friday and 7am to 12 noon on Saturday. No working would be permitted on Sundays or Bank Holidays. Percussive piling works would be restricted from 8am to 6pm Monday to Friday and 8am to 12 noon on Saturdays with no more than two periods of four hours each with at least one hour of no piling between.

OPERATIONAL PHASE

10.3.12. The applicant explains that through inclusion of the mitigation embedded into the design and optimisation of proposed operational plant items, predicted noise levels throughout daytime and night-time periods from the operational phase would not exceed 35dB LAr, T at any receptors. LAr, T is the the A-weighted, equivalent continuous sound level of an industrial noise during a specified time period, adjusted for tonal character and impulsiveness. The applicant considers this would result in a minor adverse (not significant) effect.

10.3.13. Measures to minimise noise impacts at receptors are detailed in the outline Operational Environmental Management Plan (oOEMP) [APP-0143] and secured by R13 and R15 of the dDCO [APP-012].

DECOMISSIONING PHASE

10.3.14. Based on the application of control measures referenced below, the applicant concludes that there would be a temporary minor adverse (not significant) effect due to noise from decommissioning activities.

10.3.15. Measures to minimise noise impacts at receptors are detailed in the Outline Decommissioning Environmental Management Plan (oDEMP) [APP-0146] and secured by R19 of the dDCO [APP-012].

CUMULATIVE EFFECTS

10.3.16. The applicant concluded that inter-project cumulative effects are not anticipated for any phase of the proposed development. Combined intra-project effects of noise impacts and other impacts on population receptors are discussed in chapter 11 (population) of this report.

10.4. ISSUES CONSIDERED DURING THE EXAMINATION

CONSTRUCTION NOISE

10.4.1. In response to ExQ1.11.2 [PD-007] the applicant updated the oCEMP [REP2-015] to define the construction noise limits at the level of 65dB LAeq, T at sensitive receptors during core hours and 45dB LAeq, T for horizontal directional drilling (HDD) at the closest neighbouring noise-sensitive locations during night-time operation of equipment.

10.4.2. At ExQ1.11.6 [PD-007], the applicant was asked for further information on the circumstances and justification for HDD to occur outside daytime construction hours, expected frequency and duration of such HDD works and for justification as to whether a worst-case scenario for HDD at night had been assessed in the ES.

10.4.3. In response, the applicant [REP1-071] explained that, once started, drilling operations need to be continuous until completed to avoid redrilling from, for example, a collapsed bore. Therefore, the physical length of some of the drilling works may lead to them running over the core hours. The applicant advised that the frequency of works is just once per location and for a duration of a working week, within which, HDD works might be required out of hours at any point. The applicant pointed out that if this were necessary, the out of hours working would be agreed with the relevant planning authority prior to these works as detailed and secured in the oCEMP (final version [REP4-025]).

10.4.4. The matter was raised for further discussion at Issue Specific Hearing (ISH) 2 [EV5-006] [EV5-007]. When questioned about the feasibility of achieving a level of 45dB at the closest neighbouring noise sensitive location, the applicant explained that as noise sources are fixed and small with HDD works (limited to the entry and exit pits), it is possible to achieve a 15dB reduction using barriers and up to 30dB if using a noise enclosure. Given that the HDD works would meet the daytime noise limits without mitigation, the applicant was confident that using mitigation the nighttime noise limits would be met.

10.4.5. The statement of common ground (SoCG) between the applicant and NKDC [REP3-059] noted that NKDC wanted a change to the proposed working hours to 7am to 6pm Monday through to Friday and 8am to 1pm on Saturdays. In response to ExQ2.15.2 [PD-010], NKDC explained [REP4-053] that its proposed change would mitigate against noise outside hours which are considered as sensitive as per the World Health Organisation (WHO) Night Noise Guidelines for Europe. NKDC acknowledged that other consented Lincolnshire solar schemes have not adopted the same hours but pointed out that these schemes were in other local authority areas.

10.4.6. The final signed SoCG between the applicant and NKDC [REP5-022] notes the matter of working hours as not agreed. The applicant stated that a variety of best practical means are set out in the outline Construction Traffic Management Plan [REP4-028] and oCEMP [REP4-025] to limit impacts on

the local community during the construction phase including the use of temporary hoarding around construction works close to nearby properties. The applicant also stated that whilst some impacts are anticipated, primarily during the trenching works between Springwell Central and Springwell West, these are considered to be of short duration and would not result in significant adverse effects.

OPERATIONAL NOISE

10.4.7. A number of interested parties (IPs) raised concerns about the operational noise, in particular from the battery energy storage system (BESS) and cooling fans. For example, an IP [RR-279] raised concern that there was insufficient detail regarding the frequency, volume and duration of operational noise and [RR-150] was concerned about the disturbance to local residents from the constant low-frequency noise of the BESS.

10.4.8. At ExQ1.11.5 [PD-007], the applicant was asked to explain how distinctive tonal, impulsive or low frequency noise had been identified and whether characteristics might change once the final design has been determined.

10.4.9. The applicant explained [REP1-071] that the character of the sound from the proposed equipment is generally thought to be of a constant level, with no rapid change in the level or character of noise. Whilst the cooling and inverter systems run on demand, once in operation they run on a continual basis for long periods rather than cycling on and off at defined times. The applicant therefore concluded that it was unnecessary to apply a correction for impulsivity or intermittency. However, the applicant explained it had made a worst-case assumption that all operational plant would be tonal and therefore corrections for tonality were applied in the assessment in accordance with the applicable BS.

10.4.10. The applicant stated [REP1-071] that the characteristics of the fixed plant noise would remain consistent with the assessment in the final design given that the equipment would still serve the same operational purpose. Furthermore, the applicant reiterated that compliance with the adopted noise limits would ensure that the residual effects would remain as not significant.

10.4.11. In response to ExQ1.11.3 [PD-007], the applicant updated the dDCO [REP1-006] so that R15 cross refers to the operational noise rating levels set out in the ES [APP-052], which are 40dB in the daytime and 35dB in the nighttime.

USERS OF PUBLIC RIGHTS OF WAY

10.4.12. A number of IPs, for example [RR-264] raised concern regarding the noise impacts on users of PRoW.

10.4.13. In response to ExQ1.11.4 [PD-007], the applicant stated [REP1-071] that there is no specific guidance or standard which identifies applicable noise criteria for PRoW. The applicant explained that this is primarily due to the exposure of noise along PRoW being temporary as receptors are transient. The applicant acknowledged that whilst construction noise may be

perceptible and occasionally the dominant source of noise for users of the PRoW, the anticipated levels would not result in a prolonged impact along an individual route.

10.4.14. At Deadline 2, an IP [REP2-027] provided an example of a circular walk in Springwell East which circles fields containing solar development and also passes fairly nearby a primary construction compound. The matter was raised for further discussion at ISH2 [EV5-006] [EV5-007]. The applicant stated that not only is there a transient nature of the people using the PRoW, but there is also a transient nature to the actual works themselves. The applicant explained that most of the works are not fixed in location, except for the HDD works.

10.4.15. The applicant also highlighted that the guidelines, either for construction or operational noise, don't outline users of PRoW as a fixed or a highly sensitive receptor. The applicant stated that the closest receptor category you could apply if you were to identify users of PRoW as high sensitivity would be the World Health Organisation (WHO) guidelines for gardens or balconies, which is potentially frequented a lot more by the same person on a daily basis. The applicant stated that even if you did this, all PRoW would experience noise below the 55dB limit in the WHO guidelines.

10.4.16. The applicant clarified [REP4-049] in response to ExQ2.11.1 [PD-010] that the WHO criteria does not apply for PRoW but was just given as an example to place the likely noise levels experienced by users of PRoW in context. The applicant stated that reasonable steps to mitigate and minimise adverse effects along the PRoW have been accounted for within the embedded mitigation that is secured by the Design Commitments [REP3-030]. Furthermore, the applicant stated that the implementation of the oCEMP (final version [REP4-025]) and of best practicable means as defined by the Control of Pollution Act 1974, noise impacts along the PRoW would be minimised during the construction phase. The applicant therefore considered that the first and second aims of the of the NPSE would be achieved.

10.5. EXA'S CONCLUSIONS ON NOISE AND VIBRATION

10.5.1. Although there would be some potentially disruptive noise during construction and decommissioning, the ExA is content that the measures proposed by the applicant in the oCEMP [REP4-025] and oDEMP [REP4-035] would satisfactorily mitigate and minimise the adverse effects to ensure that no significant adverse effects would occur.

10.5.2. The ExA recognises the concerns of NKDC in connection with the proposed construction hours. However, taking account of all the relevant measures in the oCEMP [REP4-025], the ExA is content that the proposed construction hours strike a reasonable balance between the protection of amenity and the construction needs of the proposed development.

10.5.3. With regards to the operational phase, the ExA is content that suitable measures would be in place to ensure that the detailed design would not lead to any significant adverse effects.

10.5.4. The ExA is satisfied that, given the low sensitivity of the PRoW to noise and limited exposure times users of the PRoW would experience, any adverse effects would not be significant for users of PRoW at any phase of the proposed development.

10.5.5. In the context of paragraph 5.12.17 of NPS EN-1, the ExA concludes that the proposed development would avoid any significant adverse impacts on health and quality of life from noise, and mitigate and minimise other adverse impacts on health and quality of life from noise. Whilst there would not be any improvements to health and quality of life compared to the existing baseline scenario, the ExA does not consider this to weigh against the proposal as it is only required 'where possible'.

10.5.6. The ExA is content that appropriate measures to minimise and mitigate noise impacts for receptors are adequately detailed in the Design Commitments [REP3-030] and the relevant outline management plans. The ExA is satisfied that these measures are properly secured in requirements R5, R12, R13 and R19 of the dDCO [REP5-004].

10.5.7. The ExA is of the view that the proposed development would accord with the relevant policy aims of NPS EN-1, NPS EN-3 and NPSE along with the relevant local plan policies. Taking all relevant matters into consideration, the ExA concludes that noise and vibration matters are neutral in the planning balance.

11. POPULATION

11.1. INTRODUCTION

11.1.1. This chapter considers the effect of the proposed development in relation to population including socio-economics, human health and electromagnetic fields.

11.2. POLICY BACKGROUND

Socio-Economics

NPS EN-1

5.13.4	Matters that may be included in the socio-economic impact assessment.
5.13.5	Existing socio-economic conditions and local planning policies.
5.13.8	Mitigation of adverse impacts.
5.13.10	Weight given to assertions that are not supported by evidence.
5.13.12	Employment and skills plan.

Human Health

NPS EN-1

4.1.7	Weighing residual adverse effects on human health against benefits.
4.4.4	Adverse health impacts and mitigation measures.
4.4.6	Local improvements to encourage health and wellbeing.
4.4.7	Mitigation of health impacts by separate regulation.
4.4.8	Health concerns and requirements.
4.12.2	Pollution control and impacts to human health.

Electromagnetic Fields

NPS EN-5

2.9.46	Underground cables and magnetic fields.
2.9.48	Health protection guidelines for non-ionizing radiation.
2.9.51	Electric and magnetic fields (EMF) from power lines and substations.

Local Policies

11.2.1. The Local Impact Reports (LIR) provided by Lincolnshire County Council (LCC) [REP1-088] and North Kesteven District Council (NKDC) [REP1-102] identify the following relevant local policies:

Central Lincolnshire Local Plan 2023-2043 (CLLP)

- Policy S10 - Supporting a Circular Economy.
- Policy S20 - Resilient and Adaptable Design.
- Policy S28 - Spatial Strategy for Employment.
- Policy S48 - Walking and Cycling Infrastructure.
- Policy S54 - Health and Wellbeing.
- Policy S59 - Green and Blue Infrastructure Network.

Scopwick and Kirkby Green Neighbourhood Plan 2021-2036 (SKGNP)

- Policy 8: Enhancing the Provision of Community Facilities.

11.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

11.3.1. The applicant's assessment of matters relating to population is largely contained within Chapter 13 of the Environmental Statement (ES) [APP-053] and accompanying figures [APP-069]. Population in the applicant's assessment relates to impacts to the population primarily in relation to the socio-economic effects which may occur as a result of the proposed development.

11.3.2. The potential impacts of the proposed development have been assessed at varying spatial scales as set out below:

- A study area of up to 500 metres (m) from the order limits was used for effects on walkers, cyclists and horse riders via impacts to public rights of way (PRoW) and agricultural land holdings in line with the Design Manual for Roads and Bridges LA112.
- A study area of 50 miles from the order limits was used for the primary construction labour market area (CLMA) and a study area of 10 miles from the order limits for the CLMA focus area. The scale of the study area was informed by Construction Industry Training Board surveys.
- A study area of 3 kilometres (km) from the order limits was used for effects on tourism based on results of the zone of theoretical visibility results.
- A study area of 20km from the centre point of the order limits was used for assessing effects on occupancy rates as a result of an influx of workforce staff to the area. The scale of the study area was chosen to encompass the distance to the nearest major settlement of Lincoln.
- The effect on the agricultural economy is considered at the scale of the county of Lincolnshire as an appropriate functional economic market area (FEMA) using professional judgement.

11.3.3. The applicant's methodology for the assessment of effects on population receptors is set out in Section 13.4 of ES Chapter 13 [APP-053].

11.3.4. The receptors and matters that were scoped into the applicant's assessment are listed below. The applicant's justification for scoping matters in/ out of the assessment can be found in tables 13.1 and 13.2 of ES Chapter 13 [APP-053].

- Employment and gross value added (GVA).
- Agricultural land holdings and the agricultural economy.
- Occupancy rates as a result of an influx of workforce staff to the area.
- Tourism.
- Walkers, cyclists and horse riders.
- Education, skills and supply chain.

11.3.5. The land use within the order limits comprises mostly land that is used for agricultural purposes. There are two agricultural operations within the study area. There are also various PRoW and routes of the stepping out network within and adjacent to the order limits.

11.3.6. Many of the footpath networks are used for tourist recreational activities and increase access to rural environments. The stepping out network is identified as being of particular significance to the tourist economy and is heavily endorsed by the North Kesteven tourism office. The Royal Air Force (RAF) Digby site is located adjacent to the order limits, which is a popular tourist attraction associated with the aviation heritage of North Kesteven.

11.3.7. The applicant identified that there are a number of small accommodation providers within the 20km radius study area. Accommodation providers with a large number of beds are located in the nearest major settlement of Lincoln, approximately 22km from the order limits.

HUMAN HEALTH

11.3.8. With regards to human health, the applicant explains in ES Chapter 5: Approach to the EIA [APP-045] that potential impacts related to human health (physical health, mental health and wellbeing) have been considered within the following environmental topic assessments:

- Temporary effects on residents' respiratory health during construction and decommissioning were considered in ES Chapter 6: Air Quality [APP-046].
- Potential impacts on health and wellbeing of residents and PRoW users, as well as on residential amenity, during construction and decommissioning were considered in ES Chapter 10: Landscape and Visual [APP-050].
- Potential effects related to noise and vibration on residents' wellbeing during construction and decommissioning were considered in ES Chapter 12: Noise and Vibration [APP-052].

- Positive mental and physical health effects for users of new paths and community areas during operation were considered in ES Chapter 13: Population [APP-053].
- Health impacts from traffic and transport disruption, safety concerns, and changes in community access during construction and decommissioning were considered in ES Chapter 14: Traffic and Transport [APP-054].
- Potential glint and glare nuisance to nearby residents during operation is assessed in the Glint and Glare Study [APP-078].

ELECTROMAGNETIC FIELDS

11.3.9. The EMF study [APP-079] undertaken by the applicant recommends a minimum clearance distance of 25m relative to public exposure limits for magnetic and electric fields and concludes that there would be no effects to sensitive receptors. The applicant states in ES Chapter 5 [APP-045] that the minimum clearance distance is secured by the layout shown in the Works Plans [APP-007].

CONSTRUCTION PHASE

11.3.10. The applicant explains [APP-053] that the 4 year construction phase is expected to create an average of approximately 400 jobs and up to 650 at peak periods.

11.3.11. The applicant concludes that there would be the following beneficial residual effects as a result of the proposed development in the construction phase:

- Neutral/ slight (not significant) beneficial effect at the primary CLMA scale and a slight (not significant) beneficial effect at the CLMA focus area scale due to additional construction employment.
- Neutral/ slight (not significant) beneficial effect due to workforce spending, GVA and multiplier effects in the supply chain.
- Slight (not significant) beneficial effect on occupancy rates as a result of an influx of workforce staff to the area due to accommodation providers experiencing an increase in revenue compared to previous years.

11.3.12. The applicant also concludes that there would be the following adverse residual effects as a result of the proposed development in the construction phase:

- Slight (not significant) adverse effect on the agricultural economy due to the likely change in employment and agricultural land.
- Slight (not significant) adverse effect on agricultural land holdings.
- Slight (not significant) adverse effect on tourism due to impacts to visitor experience and behaviours, and linked impacts to tourism business receptor performance, resulting from visual and noise construction effects.
- Slight (not significant) adverse effect on accommodation availability for tourists as a result of an influx of workforce staff to the area.
- Slight (not significant) adverse effect on walkers, cyclists and horse riders due to interference of the proposed development with existing PRoW.

11.3.13. Measures to manage any requirements to divert or temporarily close PRoW within the study area during construction are set out by the applicant in its outline PRoW and Permissive Path Management Plan (oPRoWPPMP) [APP-0145]. These measures would be secured by requirement (R) 17 of the draft Development Consent Order (dDCO).

11.3.14. The applicant states that no further additional mitigation measures over and above those required under other environmental topics are required to avoid or minimise effects on population.

OPERATIONAL PHASE

11.3.15. The applicant estimates [APP-053] that the operational (including maintenance) phase would create 24 full time equivalent jobs in Lincolnshire.

11.3.16. The applicant concludes that there would be the following beneficial residual effects as a result of the proposed development in the operational phase:

- Slight beneficial (not significant) effect due to additional operational employment.
- Slight beneficial (not significant) effect on walkers, cyclists and horse riders due to the creation of new PRoW and permissive paths.

11.3.17. The applicant also concludes that there would be the following adverse residual effects as a result of the proposed development in the construction phase:

- Slight (not significant) adverse effect on the agricultural economy due to the likely change in employment and agricultural land.
- Slight (not significant) adverse effect on agricultural land holdings.
- Slight (not significant) adverse effect on tourism due to impacts to visitor experience and behaviours, and linked impacts to tourism business receptor performance, resulting from visual and noise effects.

DECOMISSIONING PHASE

11.3.18. The applicant explains [APP-053] that the likely level of effect during decommissioning is expected to be similar to or less than that experienced during construction.

CUMULATIVE EFFECTS

Inter-Project Effects

11.3.19. The applicant explains in ES Chapter 16 [APP-056] that during the construction phase of the proposed development, cumulative effects related to the labour market may arise in-combination with solar projects in the region likely to share similar construction skillsets.

11.3.20. The applicant states that the cumulative GVA/ workforce spending supported during construction would result in a minor (not significant) beneficial effect and the cumulative GVA/ workforce spending supported during the

operational phase of the cumulative projects would result in a permanent, moderate (significant) beneficial effect.

11.3.21. The applicant identifies several solar projects which would be likely to lead to a reduction in the indicative employment capacity of agricultural land and considered that the cumulative effect on the agricultural economy in terms of indicative employment capacity would be a minor (not significant) adverse effect.

11.3.22. The applicant identifies four other solar nationally significant infrastructure projects (NSIP) located within 20km of the proposed development for which cumulative effects on occupancy rates of temporary accommodation as a result of the ingress of construction staff may arise. The applicant concluded that there would be a slight (not significant) residual adverse effect on occupancy rates.

11.4. ISSUES CONSIDERED DURING THE EXAMINATION

TOURISM IMPACTS

11.4.1. Many interested parties (IPs) [too many to list] raised concern about loss of tourism as a result of the proposed development. The applicant responded to these concerns [REP1-070] making the following points:

- The majority of tourist receptors are beyond the study area and therefore impacts to amenity or access to/ from these receptors during construction and operation (including maintenance) is likely to be minimal.
- With regard to impacts to visitor experience and behaviours related to the PRoW and stepping out network, detailed management measures would be subject to agreement with the relevant planning authorities as detailed in the oPROWPPMP [APP-0145].
- The increased level of occupancy that may result from temporary construction workforce will likely mean that accommodation providers see an increase in revenue compared to previous years. The applicant also states that workforce staff would likely stay overnight throughout all times of year and therefore may provide more income during months that would normally see less occupants wanting to stay.

11.4.2. The ExA asked LCC and NKDC (ExQ1.12.3 [PD-007]) if they agreed with the applicant's conclusion of no significant effect on tourism particularly with regard to the stepping out walks, considering there are moderate/ major adverse visual effects for footpath users identified in ES chapter 10 [APP-050].

11.4.3. In response to ExQ1, NKDC stated [REP1-103] that walking in the countryside is a key selling point for the district and is vital for both the wellbeing of residents and tourism. NKDC also stated that that the short-term impacts of temporary disruption to established routes in the construction phase and the longer-term impacts of changes to landscape and therefore relative attractiveness in the operational phase would be significant.

11.4.4. LCC also raised concern in its LIR [REP1-088] that the proposed development would have an negative impact on tourism through the loss of tourists who use the footpath network. LCC did not agree with the applicant's conclusion that as other routes of the network may continue to be used the residual impacts associated with the loss of tourism, such as potential loss of business are not likely to be impacted.

11.4.5. In response to NKDC and LCC, the applicant made the following points [REP2-023]:

- The stepping out network of footpaths extends far beyond the area affected by the proposed development, covering a 130-mile network across North Kesteven.
- Of these, only 5 trails/ loops/ circuits are within or adjacent to the order limits of the proposed development.
- ES chapter 10 [APP-050] concludes that beyond 3km there would be a low level of theoretical visibility of the proposed development and therefore there would be limited effects to tourist receptors beyond this area.
- A relatively small proportion of the stepping out network would be affected, and that the effects would be limited to changes in visual amenity (which may be subjective and may not affect tourist draw).
- During the construction phase, mitigation will be in place to avoid or minimise where practicable the adverse effects through temporary diversions and measures within the oCEMP [REP2-015] and oCTMP [REP1-062] to address amenity effects of construction on users of PRoW.
- During the operational phase, PRoW diversions would be in place, and new permissive paths will be open that have been designed to retain and enhance recreational connectivity across the proposed development.
- The wider tourist economy is substantial, with other elements that contribute to tourist draw.

11.4.6. The effects on tourism from a decline in footpath use was discussed further at ISH3 [EV6-008] [EV6-009]. The applicant acknowledged that there was potential for a decrease in the number of visitors, therefore a decrease in the footfall, and therefore a hypothetical decrease in spend in some local facilities. However, the applicant stated that there are many other local facilities and attractors to the area that would not be affected, meaning the visitor draw could be unaffected, or it could be displaced but not significantly so to the point that it would change the business models of local businesses.

11.4.7. NKDC stated that it would be possible to measure the direct impacts on tourism using baseline data collected regularly by NKDC and independent Scarborough Tourism Economic Activity Monitor (STEAM) data on visitor numbers, spend and value, which is collected and reviewed annually. The applicant cautioned against drawing together multiple data sets and drawing conclusions from them, stating that the STEAM data, which is a standard and fairly well publicised use of tourist information, is not collected at a sufficient level of granularity to give certainty that the proposed development is causing the effect.

11.4.8. The ExA asked the applicant and NKDC to hold further discussions in relation to the data used to assess tourism effects and any monitoring measures that could be put in place to understand the impact on tourism related to the use of PRoW and stepping out network.

11.4.9. At D4 NKDC explained [REP4-053] that it had suggested to the applicant that new monitoring points could be provided on both the existing circular stepping out walks and new permissive paths. The data from the new monitoring points 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 and make physical alterations to the PRoW network or promotion of the network, should the data collected warrant it.

11.4.10. The applicant considered that the monitoring proposed by NKDC (as described in paragraphs 11.4.7 and 11.4.9 above) would not meet the test of evidence as set out in paragraph 5.13.10 of EN-1. In summary the applicant's concerns included the following points:

- STEAM data reflects wider trends at a district scale, which are influenced by wider external factors than PRoW enjoyment and reflect generally fluctuating levels of tourism activity at a wider scale.
- Several factors influence use of PRoW aside from the subjective visual experience of users – it would not be possible to extract the effects of the proposed development from other factors during monitoring.
- The monitoring would not account for the potential for local displacement, or other displaced activity from any users of PRoW that might negate any change in spending activity that could affect tourism.
- The data from additional monitoring would be 'new' i.e. couldn't be comparable to the existing baseline, and wouldn't reveal information about tourist vs local use, and as such wouldn't be relatable to any mitigation.

11.4.11. The matter is marked as agreed in the final signed Statement of Common Ground (SoCG) between the applicant and NKDC [REP5-022]. The SoCG records agreement that evidenced effects of the proposed development on PRoW use, and then the translated effect in terms of tourism, would be difficult to evidence directly through monitoring. LCC did not provide any further comment on the matter beyond what was included in its LIR.

AGRICULTURAL ECONOMY

11.4.12. In its LIR, NKDC [REP1-102] raised concern regarding the cumulative impact of land take on the agriculture/ food sector and its supply chains. Many IPs [too many to list] also raised concern regarding loss of land available for food production. Such matters are discussed in Chapter 8 of this report.

11.4.13. The applicant stated that measures to promote and retain the economic value (jobs, skills, supply chain, GVA) of the proposed development are set out in the outline Employment, Skills and Supply Chain Plan (oESSCP) [APP-0153] which is secured by R16 of the dDCO [REP1-006].

11.4.14. The applicant stated that sectoral change is a normal part of the economy, and is supported by the overarching need to transition to low carbon renewable energy supported by NPSs EN-1 and EN-3.

11.4.15. In response to ExQ2.12.2 [PD-010], NKDC stated [REP4-053] that the information provided by the applicant quantifying the loss of agricultural jobs associated with land-use change is not as comprehensive as it could be but the impact on jobs is likely to be small. NKDC considered that the applicant's assessment of a slight adverse (not significant) effect on the agricultural economy was probably a bit low as there would be a local impact on the economy.

11.4.16. The signed SoCG between the applicant and NKDC [REP5-022] records that the assessment of agricultural employment is agreed.

HUMAN HEALTH

HEALTH IMPACT ASSESSMENT

11.4.17. LCC [RR-233] raised concern that the applicant had not undertaken a health impact assessment. Submissions were also made by IPs [too many to list] on the potential effects of the proposed development on health and wellbeing.

11.4.18. As set out in paragraph 11.3.8 above, the applicant's approach of considering effects on human health was to consider effects within individual topic chapters of the ES. However, given the concerns raised by LCC and IPs, the applicant submitted a Health and Wellbeing Summary Statement [REP1-067] at D1 which consolidated the consideration of health pathways in one place. The following paragraphs summarise the applicant's conclusions for the relevant topic areas.

Air Quality

11.4.19. Providing the oCTMP, oCEMP, oOEMP and oDEMP (final versions [REP4-028] [REP4-025] [REP4-033] [REP4-036]) are adhered to, the applicant concluded that adverse effects on human health in relation to air quality would be not significant for any phase of the proposed development.

Noise and Vibration

11.4.20. With regards to noise and vibration, the applicant acknowledged [REP1-067] that some receptors may be more sensitive to changes in noise due to complex audio-sensory processing difficulties. The applicant identified this would likely be the case for Heath Farm (Autism UK) which is positioned approximately 240 metres to the west of the nearest receptor considered in the ES. The applicant adopted a threshold daytime criterion of 50 dB LAeq,T in the construction phase and a night-time operational noise external criteria of 35 dB LAr to account for receptors with special auditory needs at Heath Farm.

11.4.21. The applicant assessed that there would be a short-term minor adverse (not significant) effect from activities during the construction phase and noise from the operational phase would be inaudible at Heath Farm. The applicant

concluded there would be no significant adverse effects on human health at any phase of the development.

Landscape and Visual

11.4.22. Many IPs [too many to list] raised concern in their relevant representations that the change in landscape character would have a detrimental impact on residents mental health and wellbeing. In response, the applicant stated [REP1-067] that assigning an effect on personal perception of the landscape and its mental health and wellbeing value is dependent on subjective interpretation of the landscape as a whole, and of individual views.

11.4.23. As is discussed in Chapter 9 (landscape and visual) of this report, the applicant reiterated that changes to visual amenity on PRoW will be mitigated against as far as is reasonably practicable. The applicant stated [REP1-067] that new hedgerow planting or structural planting belts would result in most adverse effects becoming not significant by the year 10 of operation. The applicant also highlighted that enhancements to the long-term accessibility of the area through the provision of 4 new permissive paths would promote and enhance physical and mental wellbeing.

11.4.24. At ISH3 [EV6-008] [EV6-009], the ExA questioned the benefit that the permissive paths can be attributed given there is no visual screening from them of the proposed development.

11.4.25. The applicant's position was that there is not necessarily a link between the significance assessment for the purposes of landscape and visual impact and the significance assessment of health and wellbeing for all users of those footpaths. The applicant also stated that while some people might find that walking through the permissive paths through the solar project unappealing, there may be a proportion who find it interesting. At the hearing several IPs expressed strong disagreement with this position.

Traffic and Transport

11.4.26. The applicant acknowledged [REP1-067] that there is the potential for health and wellbeing effects should the proposed development prevent access between residential and community facilities, and/ or dissuade individuals from walking or cycling (either recreationally or for other purposes).

11.4.27. In the construction phase, the applicant stated that residual effects on driver delay, pedestrian delay, non-motorised user amenity and road safety are recorded in the ES [AS-010] to be either adverse but not significant or beneficial and significant.

11.4.28. In the operational phase, the applicant stated that the proposed development would result in a slight beneficial (not significant) effect on walkers, cyclists and horse riders given that the proposed development would result in an increase in the use and connectivity of PRoW and permissive paths.

Socio-Economics

11.4.29. The applicant stated [REP1-067] that, in both the construction and operational phases, the anticipated increase in employment and employee spending would have positive impacts on the health and wellbeing of the wider population, providing population groups with a sense of financial stability while improving mental health and access to resources.

Other Health Determinants

11.4.30. With regard to other health determinants and pathways considered in the ES, the applicant made the following points [REP1-067]:

- Likely significant effects to human health due to glint and glare are not expected as a result of the proposed development.
- EMF levels will be within safe limits as defined in the by UK exposure guidelines.
- No significant effects in relation to major accidents and disasters are anticipated during any phase of the proposed development.
- In relation to battery failure/ fire, the applicant stated that in the event that harmful impacts could occur, they are predicted to only occur within tens of metres from the specific BESS enclosure involved in any thermal runaway event. The applicant was confident that any toxic gas emissions to sensitive receptors will be below Public Health England (PHE) guideline exposure limits.
- The ES concluded no significance adverse effects in relation to groundwater which suggests that groundwater effects on human health are unlikely to be significant.
- It is likely that the proposed development would contribute to reduced anxiety amongst the general population concerned about climate change.

In-combination Effects on Users of PRoW

11.4.31. The applicant stated [REP1-067] that, following the consideration of embedded and additional mitigation, during the construction phase users of PRoW would experience:

- Negligible effects relating to severance, pedestrian delay, user amenity, fear and intimidation, road safety, and hazardous loads.
- Negligible air quality effects relating to human health as a result of construction activity causing dust and particulate matter (PM10).
- Not significant effects relating to road traffic exhaust emissions during construction activity.
- Slight adverse effects related to temporary PRoW closures.
- Major adverse visual effects at 3 PRoW receptor locations.
- Moderate adverse visual effects at 3 other PRoW receptor locations.

11.4.32. With regards to the operational phase, the applicant stated that, following the consideration of embedded and additional mitigation, users of PRoW would experience:

- Moderate beneficial effects relating to severance, pedestrian delay, user amenity, fear and intimidation, road safety, and hazardous loads as a result of the addition of new permanent PRoW.
- Not significant effects relating to road traffic exhaust emissions during operational activity.
- Slight beneficial effects as a result of an increase in use and connectivity of PRoW and 4 new permissive paths.
- Major/ moderate adverse visual amenity effects at:
    - PRoWs between Blankney, Scopwick and Kirkby Green extending up to Blankney Walks Land and the railway on the east of the Site (including several 'Stepping Out' walks).
    - PRoW between RAF Digby and B1188 (Footpath R5/1).
    - PRoWs and lanes north-west between A15 and Wellingore Heath including New England Land and Gorse Hill Lane.
    - Spires and Steeples Trail.

11.4.33. The applicant stated that effects during the construction phase are temporary, short-term and managed where practicable through embedded mitigation and management plans, and that any short-term closures of PRoW and disruption would be limited and well managed and communicated. The applicant also stated that following construction, there would be permanent, long-term improvements in accessibility within the local area and across the proposed development site.

ELECTROMAGNETIC FIELDS

11.4.34. Some IPs raised concerns regarding EMF impacts from the proposed development. For example, [RR-365] raised concern about the electromagnetic impact on users of PRoW. The applicant reiterated [REP1-170] that its assessment [APP-079] concluded that there would be no EMF effects to sensitive receptors.

11.4.35. The Ministry of Defence (MOD) identified [RR-278] that the proposed development area occupies the statutory technical safeguarding zones that surround RAF Digby and relate to receivers and microwave links that form part of the East 1 Wide Area Multilateration (WAM) network, which provides air navigation services. The MOD raised concerns that the proposed development would potentially produce electrical noise emissions that may adversely affect the operation of technical installations.

11.4.36. The MOD [RR-278] provided proposed wording for a requirement for an Electrical Noise Interference Management Plan (ENIMP) to be submitted for approval to the relevant planning authority in consultation with the MOD prior to commencement of any development.

11.4.37. The applicant updated the dDCO at D1 [REP1-006] to include R20 based on the wording that was suggested by the MOD. By the close of the examination the wording for R20 in the final dDCO [REP5-004] was agreed between the MoD and applicant, as recorded in the signed SoCG [REP5-024].

OTHER MATTERS

Ethical Procurement

11.4.38. Numerous IPs [too many to list] raised concerns regarding ethical procurement of solar panels. The applicant was asked at ExQ1.12.6 [PD-007] to provide more detail on the measures that would be applied to the applicant's own operations, and those of the supply chains.

11.4.39. In response, the applicant [REP1-071] outlined its policies and processes for evaluating and mitigating the risk of modern slavery, both in its own operations and its supply chain including: supplier demonstration of compliance with the Modern Slavery Act 2015; site audits; contractual safeguards permitting termination in the event of non-compliance; employee vetting; sustainable procurement processes; and environmental, social and governance (ESG) audits for solar panel suppliers. The applicant stated that the above measures are secured through the commitments set out in section 2.5 of the oESSCP [APP-0153].

Skills and Education Funding

11.4.40. NKDC stated in its RR [RR-305] that it was seeking a commitment to delivering a skills and education package which it considered should engage a financial contribution. In response to ExQ1.12.1 [PD-007], NKDC stated [REP1-103] that the oESSCP [APP-0153] is not clear how the activities set out in the plan would be funded. NKDC considered that a section (s) 106 agreement securing funding for a skills and education package would be additional to the measures set out in the oESSCP and would assist in providing a beneficial effect after development.

11.4.41. A draft s106 agreement was provided at D4 [REP4-049] and updated at D5 [REP5-029]. Although NKDC indicated in the signed SoCG with the applicant [REP5-022] that it was satisfied with the proposed funding commitment for the skills and education package, the s106 agreement had not been signed at the close of the examination as there was a separate unrelated disagreement between the parties regarding the monitoring of biodiversity net gain (as covered in chapter 6 of this report).

11.5. EXA'S CONCLUSIONS ON POPULATION

11.5.1. The ExA considers that sufficient evidence has not been provided to support the assertion that potential effects of the proposed development on PRoW use would translate to adverse effects in terms of tourism beyond those already assessed in the ES [APP-053]. In accordance with paragraph 5.13.10 of NPS EN-1, the ExA therefore affords limited weight to this matter.

11.5.2. The ExA notes that there is agreement between NKDC and the applicant regarding the assessment of agricultural employment. The ExA considers that the oESSCP [APP-0153] sets out reasonable measures to promote local employment and skills development opportunities. The ExA considers that the oESSCP is adequately secured by R16 of the rDCO. The ExA is therefore satisfied in relation to paragraph 5.13.12 of NPS EN-1.

11.5.3. The ExA is content that there would be no significant adverse cumulative population effects as a result of the proposed development in combination with other developments, including in relation to the impact of land take on agriculture, the impact on the agricultural economy in terms of indicative employment capacity and the impact on occupancy rates. The ExA note that there would be a moderate (significant) cumulative beneficial effect on the GVA/ workforce spending supported during the operational phase.

11.5.4. Overall, the ExA accepts the applicant's conclusions on effects on employment, GVA and tourism during the construction, operational and decommissioning phases as summarised in table 13.8 of the ES [APP-053].

11.5.5. The ExA finds that adverse impacts on human health would be managed and mitigated through adherence to oCTMP [REP4-028], oCEMP [REP4-025], oOEMP [REP4-033] and oDEMP [REP4-036]. The ExA is content that there would be no significant residual effects on human health. The relevant management plans are adequately secured by requirements in the rDCO.

11.5.6. The ExA is content that there would be no significant adverse effects associated with EMF on any sensitive receptors. The ExA is satisfied that concerns raised by the MoD in relation to EMF have been addressed and that an ENIMP is adequately secured by R20 of the rDCO.

11.5.7. The ExA notes the concerns raised by IPs regarding ethical procurement and the measures put in place by the applicant through the oESSCP. However, the ExA considers that ethical procurement is a matter that would, if necessary, most suitably be regulated by wider restrictions or controls outside the remit of this application. The ExA therefore do not consider it affects the overall conclusions on the application.

11.5.8. With regards to the skills and education funding commitment, as the draft s106 was not signed at the end of the examination, the ExA cannot take it into account in its recommendation. The Secretary of State (SoS) may wish to ask the parties for an update on discussions. The ExA considers that the funding commitment would be beneficial but would not change the overall weighting attributed to population matters.

11.5.9. The ExA note that whilst there would be some beneficial effects including in relation to construction and operational employment, GVA/ workforce spending and the provision of new PRoW and permissive paths, there are also a number or minor adverse effects identified. The ExA consider that the benefits and disbenefits balance each other out and therefore conclude that population matters are neutral in the planning balance.

12. TRAFFIC AND TRANSPORT

12.1. INTRODUCTION

12.1.1. This chapter considers the effect of the proposed development in relation to traffic and transport, including public rights of way (PRoW). Matters associated with air quality and noise and vibration from traffic are considered in Chapters 5 and 10 of this report.

12.2. POLICY BACKGROUND

NPS EN-1

5.14.7	Travel plan including demand management and monitoring measures.
5.14.11	Demand management measures.
5.14.14	Requirements where there is likely to be substantial Heavy Goods Vehicle traffic.
5.14.18	Impacts on transport infrastructure and mitigation measures.
5.14.21	Refusal on highways grounds.

NPS EN-3

2.10.39	Access routes for operation and maintenance.
2.10.41	PRoW.
2.10.123	Routes for delivery of materials and components.
2.10.125	Capacity of roads and bridges on the proposed delivery route.
2.10.139	Vehicle movements during the construction stage.
2.10.140	Requirements to control vehicle movements.
2.10.141	Cumulative construction effects.

Local Policies

12.2.1. The Lincolnshire County Council (LCC) and North Kesteven District Council (NKDC) Local Impact Reports (LIR) [REP1-088] [REP1-102] refer to the following policies:

- Central Lincolnshire Local Plan (CLLP) Policy S47: Accessibility and Transport.
- CLLP Policy S48: Walking and Cycling Infrastructure.
- CLLP Policy S54: Health and Wellbeing.
- CLLP Policy S59: Green and Blue Infrastructure Network.

- Scopwick and Kirkby Green Neighbourhood Plan Policy 5: Conservation and Enhancement of Non-Vehicular Routes.

12.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

12.3.1. The applicant's assessment of matters relating to traffic and transport is largely contained within Chapter 14 of the Environmental Statement (ES) [APP-054], accompanying figures [APP-070] and the Transport Assessment (TA) [APP-123]. Relevant plans include the Streets, Rights of Way and Access Plans [AS-005] and the Traffic Regulations Plans [APP-010]. Cumulative traffic and transport effects are considered in Chapter 16 of the ES [APP-056].

12.3.2. The study area includes the construction vehicle routes, and those sensitive receptors identified in proximity to them. The construction vehicle routes are then split into links. This area covers the immediate area surrounding the order limits and roughly a 5km distance to the south where the A15 meets the A17. The study area is shown in Figure 14.1 of the ES [APP-070]. For PRoW, the assessment study area is set out in Table 14.19 of the ES [APP-054].

12.3.3. Guidance referred to for the assessment includes the Institute of Environmental Management and Assessment (IEMA) Environmental Assessment of Road Traffic and Movement (2023), Planning Practice Guidance for Travel Plans, Transport Assessments and Statements (2014) and The Transport Analysis Guidance, published by the Department for Transport (DfT) (2023). The assessment methodology is based on IEMA guidance.

12.3.4. The scenarios assessed in the TA [APP-123] are:

- Baseline (2024).
- Construction Commencement Year (2028).
- Construction Commencement Year + Committed Development (2028).
- Commencement Year + Committed Development + Proposed Development (2028).

12.3.5. The criteria assessed in the ES are severance, driver delay, pedestrian delay, non-motorised user amenity (including PRoW), fear and intimidation, road safety and hazardous/ large loads.

12.3.6. Baseline traffic conditions are identified through a combination of ordnance survey mapping, google maps imagery and personal injury collision data obtained from LCC. Site visits and surveys have also been undertaken, including site visits in June 2023 and June 2024 and traffic surveys in June and July 2023 and April 2024. The 2028 baseline is identified using growth factors obtained from the DfT's Trip End Model Presentation Program

(TEMPro), which uses the National Trip End Model datasets to predict traffic forecasts.

CONSTRUCTION PHASE

12.3.7. The ES [APP-054] identifies that the construction phase will result in the greatest level of traffic generation. At its peak the proposed development would result in the daily generation of Heavy Goods Vehicle (HGV) trips (two way) at the primary construction compounds of 110 at Springwell West, 70 at Springwell Central and 80 at Springwell East. The assessment notes that it is not anticipated that these peak movements will occur at any one time across all primary construction compounds but will be distributed across the working day.

12.3.8. In terms of Light Goods Vehicles (LGV), the proposed development at its peak would result in the daily generation of 640 trips (two way) at the primary construction compound at Springwell West, 374 at Springwell Central and 508 at Springwell East.

12.3.9. To seek to mitigate the effects of the proposed development the assessment sets out that embedded mitigation is proposed and includes:

- Upgrade of A15/ B1191/ Temple Road junction.
- Upgrade of A15/ Gorse Hill Lane junction.
- Widening on the B1191 RAF Digby and Ashby-de-la-Launde.
- Vehicle passing bays along Temple Road.

12.3.10. The Outline Construction Traffic Management Plan (oCTMP) [APP-0141] also sets out other mitigation and control measures such as vehicle routeing, community liaison with local residents and travel plan measures to seek to reduce trip generation.

12.3.11. The assessment sets out that the proposed development seeks to protect and enhance the existing PRoW network and ensure the provision of new and improved multi-user routes. This includes the creation of three new PRoW and four permissive paths.

12.3.12. The applicant's assessment finds that with mitigation there would be a minor adverse effect, not considered to be significant at: the A15/B1202 junction (am peak); the A15, B1191, B1188 road closures (temporary off-peak single lane closures); and on users of links used for abnormal indivisible loads deliveries. The assessment considers that due to the provision of an additional path between RAF Digby and Scopwick, there would be a moderate beneficial effect at Link 13 that is significant in environmental impact assessment terms.

12.3.13. The assessment considers all other construction related effects would be negligible adverse and not significant.

OPERATIONAL PHASE

12.3.14. The ES [APP-054] sets out that owing to the low number of anticipated trips during the operational phase, and as any vehicle movements are expected to be within the 10% daily variation of traffic flows to be expected across the highway network at operational years', the vehicle movements will be imperceptible, thus an assessment is not required.

DECOMMISSIONING PHASE

12.3.15. The applicant considers [APP-054] that activities are expected to be the same and traffic volumes are anticipated to be no greater than that experienced during the construction phase. The applicant is of the view that the embedded (permanent) mitigation implemented during the construction phase and the implementation of additional mitigation in the form of a future Decommissioning Traffic Management Plan and the PRoW and Permissive Path Management Plan (oPROWPPMP) [APP-0145] will be adequate to mitigate the potential effects during decommissioning. Therefore, the effects on all users would be no greater than those predicted for the construction phase.

CUMULATIVE EFFECTS

12.3.16. The ES [APP-056] sets out that due to the limited spatial cross-over and minimal construction traffic vehicle numbers overlapping the proposed development's construction traffic routes, inter-project cumulative effects are unlikely to arise as a result of the interaction between the proposed development and other existing development and/or approved developments and therefore considered to be not significant.

12.3.17. The assessment also finds that as long as there is adequate mitigation provided for the proposed National Grid Navenby Substation (NGNS), that would be secured through its own planning permission, there should not be any inter-project cumulative effects.

12.4. ISSUES CONSIDERED DURING THE EXAMINATION

TRAFFIC EFFECTS ON THE LOCAL ROAD NETWORK

12.4.1. LCC as highway authority [RR-233] [REP1-088] [REP1-089] [REP1-090] set out:

- It would require full details of the proposed improvements on the A15/B1191/Temple Road and A15/Gorse Hill Lane junctions and raised concern that the wording of the draft Development Consent Order (dDCO) [APP-012] would give the developer the right to do these works with no further approvals by LCC, which it considers is unacceptable. Further, the level of details for the access junctions should be improved to show details of visibility splays and swept path analysis.
- The A15/B1202 junction is over-capacity and has an existing accident problem. Given this junction is on the main construction route to the site,

LCC considered that it would be reasonable for the developer to contribute towards the cost of the mitigation proposals.
- Other improvements proposed in the dDCO, such as passing places and accesses do not require a legal agreement or bond, but the technical checks can be completed via later submissions under the Construction Traffic Management Plan (CTMP).
- Construction traffic needs to be restricted to the proposed routes in the ES. This could be enforced through a mechanism in the CTMP [APP-0141].
- The cumulative traffic assessment should include the proposed NGNS.

12.4.2. The applicant [REP1-071] [REP1-073] [REP2-023] responded to these comments by:

- Altering the draft oCTMP [REP1-062] so that LCC approve the detailed design of the junction improvement works and provided road safety audits [REP1-075] for the A15/B1191/Temple Road and A15/Gorse Hill Lane junctions.
- Agreed with LCC that the oCTMP will include measures to reduce staff movements through the A15/B1202 junction during peak hours. Therefore, a financial contribution towards improvement works is not justified.
- Restricting construction traffic routes to those assessed in the ES in the oCTMP [REP4-028].
- Undertaking a cumulative traffic assessment note that included the NGNS [REP4-049].

12.4.3. At Issue Specific Hearing (ISH) 4 [EV7-004] [EV7-005] the ExA asked questions about the enforceability of the restrictions/ mitigation during peak times at the A15/B1202 junction and whether it could lead to more traffic using other roads secured in the construction traffic routeing. Similar concerns were raised by interested parties (IP's). The applicant set out [EV7-004] [EV7-005] [REP3-075] that this would be managed through contractual arrangements with site workers and confirmed that no access routes would change and most staff would arrive outside peak hours. It was also noted that HGV movements would be limited during embargo periods but compensated for outside those times.

12.4.4. In terms of staff movements, the applicant [EV7-004] [EV7-005] [REP3-075] also noted that this would be managed through the Staff Travel Plan, which would form part of the final CTMP. The plan would prohibit staff travel through the embargoed junctions during peak hours, and this requirement will be communicated to contractors well in advance. The plan would also include monitoring and enforcement measures. After further questioning from the ExA [EV7-004] [EV7-005], the applicant noted that staff shift patterns would be planned well in advance to avoid idle time and ensure compliance with traffic restrictions. If staff are based north of the site and would otherwise finish during embargoed hours, shift times will be adjusted accordingly. It was also noted that additional mitigation includes the use of coaches and minibuses to regulate arrival times and ensure compliance with designated routes. At the request of the ExA [EV7-004] [EV7-005], the

applicant amended the oCTMP [REP4-028] to ensure that shift patterns would be agreed with LCC to avoid staff travelling at peak times.

12.4.5. LCC [REP3-079] set out it was content with such measures and that this can be achieved by specific inclusion in the final CTMP and in the contract with the contractor. The contractor would then employ and inform staff and delivery drivers of this requirement and there would be penalties for non-compliance. LCC are of the view that this approach should prevent most vehicles from impacting the A15/B1202 junction. If there are concerns that the embargo is not being maintained sufficiently, LCC set out it can be raised with the contractor to take further measures.

12.4.6. The effects of construction traffic on the local area were raised by numerous IP's [too many to list]. The concerns raised can be summarised as:

- Rural roads being unsuitable for increased traffic and HGVs.
- Damage to road surfaces.
- Potential for increased accidents on the A15.
- Safety impacts on Green Man Road and Heath Lane. The A15 junction with Green Man Road and the A15 south to Heath Lane have poor collision records. 100 HGVs per day through the Green Man Road junction, is not insignificant and should be included within an updated traffic assessment.
- Study area being too narrow and the potential impacts on villages to the west of the A15.
- Impacts on the A15/B1202 junction.
- Traffic routeing through Scopwick, including HGVs.
- The impact of traffic on Link 14 being underestimated in the ES.
- Cumulative assessment being inadequate.
- The proposed development should be delayed until after the North Hykeham Relief Road is delivered.
- Construction vehicles not adhering to secured vehicle routes and using minor rural lanes. Strict monitoring and enforcement being required.

12.4.7. The applicant's [REP1-070] [REP2-023] [REP3-075] [REP4-048] [REP4-049] [EV7-004] [EV7-005] responses include that:

- Traffic effects have been fully considered in the ES and suitable mitigation set out in the oCTMP.
- The effects of construction traffic are temporary in nature and considered to be not significant following the adoption of the measures outlined in the oCTMP. Measures detailed in the oCTMP include setting approved access routes for traffic, road signage strategy, a Staff Travel Plan, Community Liaison Group/ Traffic Management Working Group, monitoring of the traffic management measures and effective enforcement measures.
- The need for a highway condition survey is contained in the oCTMP to ensure that the public highway is in a condition that is safe for all users and all modes of transport.

- The traffic impact on the A15 varies between 2% and 4% depending upon which section is under consideration. This is well below the threshold for undertaking a detailed assessment (10%). The impact on the B1191 varies between 8% and 20%. Appropriate assessments and mitigation have been undertaken on the A15 along with the B1188 and Temple Road.
- There are proposals to address road junction safety on the A15 which include visibility and right turn enhancements at various locations and at site access locations.
- Mitigation at the A15/B1202 junction has been agreed with LCC.
- No construction traffic is proposed to use the A607 or will pass through the settlements of Navenby, Wellingore, Welbourn, Leadenham or Caythorpe.
- Link 14 has been appropriately assessed. The road is capable of accommodating passing HGV traffic. There would be 3.3 HGVs one way per hour (i.e. a HGV every 18 minutes, one way). The assessment concludes that the traffic impact, post mitigation, is not significant as defined in the IEMA guidelines. The addition of 14 residential units would not change link sensitivity and properties with frontages are already accounted for in the assessment. Only one “Slight” accident has been recorded on the link in the last five years, this is not a high occurrence. LCC has not raised any concerns about HGVs routeing safely through Scopwick. The latest version of the oCTMP [REP4-028] contains a commitment to remind drivers of school pupil movements in Scopwick at the site induction and toolbox talks.
- At the request of the ExA [EV7-004] [EV7-005] [PD-010] the applicant, provided a revised cumulative traffic assessment through an additional transport note [Appendix 1, REP4-049].
- The proposed development does not rely on the North Hykeham Relief Road being delivered and proposes mitigation in its absence.
- The final CTMP will include further details on monitoring, compliance and enforcement as noted in Section 8 of the oCTMP [REP3-035]. This would include enhanced HGV identification, tracking, use of CCTV at site accesses, GPS tracking, spot checking, review of tachographs, etc, as well as details of sanctions and a reporting process. The final CTMP must be approved by the relevant planning authority and strictly adhered to, with NKDC empowered to enforce compliance under the Planning Act 2008 (PA 2008) if there is a breach of the requirement.

12.4.8. At the end of the examination there were no outstanding matters between LCC and the applicant, as confirmed in the signed Statement of Common Ground (SoCG) [REP5-021].

PUBLIC RIGHTS OF WAY

12.4.9. LCC set out [RR-233] [REP1-088] a number of matters in relation to PRoW:

- Whilst being supportive of the proposed enhancements, it would like to see a new PRoW linking ROWS/5/1 to the highway on the western end; an enhancement to fix the gap between the legal line of Ashby De La Launde PF 11 to the highway; and a continuation of Cuckoo Lane.

- It is recommended that the surfacing for the proposed upgrade to the existing PRoW between Scopwick and Blankney to bridleway status is defined to ensure that it is accessible all year round.
- Suggested a number of changes to the oPROWPPMP [APP-0145].

12.4.10. LCC subsequently advised [REP1-089] that following further discussion with the applicant, it was no longer seeking the ROWS/5/1 to the highway link and the continuation of Cuckoo Lane enhancements.

12.4.11. Network Rail (NR) set out [RR-296] that the oPROWPPMP proposes changes to a PRoW that includes a railway crossing (the Scopwick Yard Level Crossing which connects Scop/8/2 and M/tin/7/1) and that it does not appear that the impacts on the railway or on continuing use of the PRoW using the level crossing in this location have been considered. NR noted that the oPROWPPMP sets out various alternative routes for Scop/8/2 but these do not facilitate access across the railway to connect with the existing path on the other side and would therefore render the level crossing obsolete while any diversions are in place.

12.4.12. The applicant responded [REP1-071] to these comments and to related written questions from the ExA [ExQ1.13.9, PD-007] [ExQ1.13.10, PD-007] with a number of changes to the oPROWPPM [REP1-044] to seek to address LCC's and NR's comments.

12.4.13. The applicant also noted [REP1-071] that the legal line of Ashby De La Launde PF11 does not align with the signed route from the highway on the B1191 and agreed to extend this by 28 metres to align to the signed route. An updated Streets, Rights of Way and Access Plans was provided [REP1-004] to reflect this.

12.4.14. The ExA asked [EV7-004] [EV7-005] whether this alteration represented a change to the application. The applicant, LCC and NKDC [EV7-004] [EV7-005] all considered the revision to the plans to be very minor and did not constitute a change. No other party raised any concerns.

12.4.15. After further discussion between the applicant and LCC, a further update was made to the oPROWPPMP [REP3-044]. By the end of the examination there were no outstanding issues in relation to PRoW, as set out in the signed SoCG with LCC [REP5-021] and NR [REP1-099] also confirmed changes to the oPROWPPM had overcome its concern.

OTHER MATTERS

Strategic road network

12.4.16. National Highways (NH) [RR-290] set out that the applicant should provide further information, regarding the methodology for calculating the number of peak hour workers on the strategic road network (SRN) (A1/ A46) to allow it to complete its independent checks. The applicant stated at ISH1 [EV4-008] [EV4-009] that further discussions had taken place. The ExA asked a written question [ExQ1.13.1, PD-007] for NH to provide further information in relation to what additional evidence it required. NH did not respond to the written

question, but did sign a SoCG with the applicant [REP3-071] confirming it was content with the assessment and has not raised an objection to the proposed development.

Abnormal loads

12.4.17. The oCTMP [REP4-028] sets out the route that abnormal loads would follow to the application site. The ExA asked [PD-007] NH and LCC if they considered this route to be acceptable. LCC confirmed that it was content [REP1-089]. Despite a further written question from the ExA [ExQ2.13.1, PD-010] NH did not respond. However, the signed SoCG [REP3-071] between NH and the applicant sets out that NH are to provide details of the suitability of abnormal load movements on the SRN to the applicant.

Railway Matters

12.4.18. NR raised [REP3-069] concerns about potential impacts on the safe operation of the Peterborough to Lincoln railway during construction and operation. In reply to a written question from the ExA [ExQ2.13.6, PD-010], NR confirmed [REP4-060] that discussions were continuing on the wording to be included in a framework agreement which is designed to address NR's concerns, and this was close to agreed form. At the close of the examination (D5), a revised SoCG [REP5-025] was provided that stated a basic asset protection agreement, that covers pre-construction technical and construction assurance, has been substantially agreed by the applicant and awaits final signature.

12.4.19. The SoCG [REP5-025] states that all other matters are agreed. NR also confirmed [REP4-060] that the protective provisions in the applicant's dDCO [REP5-004] are acceptable. However, the SoCG provided at D5 was not signed by NR and it did not make any other submissions at D5.

12.5. EXA'S CONCLUSIONS ON TRAFFIC AND TRANSPORT

TRAFFIC EFFECTS ON THE LOCAL ROAD NETWORK

12.5.1. The ExA acknowledges the strong concerns of local residents about the effect of increased traffic on the local area, particularly during the construction phase. The ExA considers that the applicant has provided a robust assessment of likely effects on the local road network that is based on an appropriate study area. Further, with the additional assessment [REP4-049] provided by the applicant at the request of the ExA, we consider that cumulative effects have been suitably assessed. Whilst we note the concerns of some IPs, in terms of the level of detail provided in the cumulative assessment, the ExA is of the view that the assessment has made use of the most up-to-date information about other projects available. Further, we consider that the assumptions made in terms of traffic generation from the proposed NGNS are reasonable. The ExA is also mindful that other projects following the proposed development will also need to mitigate cumulative effects which will include this project.

12.5.2. The ExA has considered the potential effects on the A15 carefully, particularly in terms of road safety. When taking into account the proposed mitigation, as secured in the oCTMP [REP4-028], the ExA agrees with the applicant that the level of traffic generated by the proposed development both in itself and cumulatively with other projects, would not result in any unacceptable impacts. This includes the A15 junctions with Green Man Road and Heath Lane. The ExA is also mindful that LCC has not raised any concerns in this regard.

12.5.3. The A15/B1202 junction and its existing capacity issues were discussed throughout the examination. After detailed discussion on the suitability of the measures proposed at ISH4 [EV7-004] [EV7-005] and the subsequent alterations to the oCTMP, the ExA is content that there would not be any unacceptable impacts on the junction and the restrictions at peak times are feasible and would not result in the increased usage of other links beyond the level of effects assessed in the ES.

12.5.4. The ExA visited Scopwick during both its Unaccompanied Site Inspections (USI) [EV1-001] [EV1-002] and the Accompanied Site Inspection [EV9-001]. We walked the entire length of Link 14 on the second USI. Based on our observations we consider that Scopwick is suitable for passing HGV traffic and are of the view that the anticipated frequency of traffic during the construction phase, particularly from HGVs would not cause any unacceptable impacts, including on pedestrian safety. Further, for the reasons provided above by the applicant, the ExA is satisfied that Link 14 has been appropriately assessed. The ExA is also mindful that LCC has not raised any concerns about the use of the B1191 and B1188 through Scopwick as a construction traffic route.

12.5.5. The ExA acknowledges the genuine fears of IPs that construction traffic would not stick to the restrictions and traffic routes set out in the oCTMP. The ExA is satisfied that the agreed construction traffic routes are appropriately set out in the oCTMP [REP4-028], which is secured by Requirement 14 of the rDCO. Section 8 of the oCTMP [REP4-028] sets out the monitoring, compliance and communication strategy. This notes that the final CTMP will include further details on monitoring, compliance and enforcement. As set out above by the applicant, there is a range of methods that could be used to monitor and enforce use of the agreed traffic routes. This could include enhanced HGV identification, tracking, use of CCTV at site accesses, GPS tracking, spot checking and review of tachographs. The ExA is content that there are sufficient measures available to monitor and adequately enforce the agreed construction traffic routes and restrictions.

PUBLIC RIGHTS OF WAY

12.5.6. The ExA discussed the proposed enhancement to fix the gap between the legal line of Ashby De La Launde PF11 to the highway at ISH4 [EV7-004] [EV7-005] and agrees with all parties that the alteration was very minor and does not constitute a change to the application.

12.5.7. The ExA considers that the proposed enhancements to the PRoW network are appropriately secured in the Streets, Rights of Way and Access Plans [REP1-004], the oPROWPPMP [REP3-044] and Requirement 17 of the rDCO. The ExA agrees with the applicant and LCC that these represent a benefit of the proposed development. We also consider that the strategy for dealing with any disruption or diversions to the PRoW network is appropriate.

OTHER MATTERS

12.5.8. The ExA is content that the effects of the proposed development on the SRN have been appropriately considered and there would not be any unacceptable impacts, as agreed by NH [REP3-071].

12.5.9. Despite several requests from the ExA, NH did not provide the additional information about abnormal load routeing as set out between the parties in the SoCG [REP3-071]. However, NH has not raised an objection and the ExA sees no reason to believe that a suitable abnormal load route cannot be agreed in the final CTMP.

12.5.10. In terms of the safe operation of the Peterborough to Lincoln railway during construction and operation, the ExA considers it is unfortunate that a signed SoCG between the applicant and NR was not provided at D5. However, it appears that NR concerns are not of a technical nature but rather seeking to ensure asset protection. The ExA also notes that protective provisions have been agreed between the parties. Given there is no technical evidence before the ExA to demonstrate otherwise, we consider that the proposed development can be constructed without causing harm to the safe operation of the Peterborough to Lincoln railway line. Notwithstanding this, the Secretary of State may wish to request an update on these discussions.

OVERALL CONCLUSION

12.5.11. The ExA is content that the proposed development would not cause an unacceptable impact on highway safety and that cumulative impacts on the road network would not be severe. The ExA finds that adequate consideration is given to the provision of public, or shared transport and consider that consent should not be refused on highways grounds alone, in accordance with paragraph 5.14.21 of NPS EN-1. Further, the ExA considers that the proposed development complies with the relevant parts of NPS EN-1 and NPS EN-3 and local policies, that have been set out above.

12.5.12. Although the ExA is content that impacts on the road network would not be severe and mitigation measures would reduce effects as far as reasonably possible, in accordance with NPS EN-1, there would still be some residual adverse effects, as can be seen from the applicant's assessment [Table 14.37, APP-054]. This would undoubtedly cause disturbance to local communities. Whilst the assessment may only identify minor or negligible residual adverse effects in each case, the identified effects could occur at the same time and could cause disruption over several years. The ExA considers that this should weigh against the proposed development.

12.5.13. Taking into account the positive benefits of the proposed enhancements to the PRoW network, the ExA concludes that the identified beneficial and negative effects balance each other out and therefore traffic and transport is a matter of neutral weight in the planning balance.

13. WATER ENVIRONMENT

13.1. INTRODUCTION

13.1.1. This chapter considers the effect of the proposed development on the water environment.

13.2. POLICY BACKGROUND

WATER QUALITY AND WATER FRAMEWORK DIRECTIVE

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (the WFD Regulations)

13.2.1. The WFD Regulations require the appropriate agency to prepare river basin management plans for each river basin district, setting out statutory objectives for relevant water bodies and the measures needed to achieve them. Regulation 3 places a general duty on the Secretary of State (SoS) and the Environment Agency (EA) to exercise their 'relevant functions' to secure compliance. These bodies, together with public bodies, have a specific duty to have regard to the relevant river basin management plan.

NPS EN-1

4.12.15	Regulation of releases under the pollution control framework.
4.12.16	Grounds for refusal based on pollution.
5.16.7	Matters to be described in the Environmental Statement.
5.16.14	River basin management plans and the WFD Regulations.
5.16.15	Interaction with water resources management plans.
5.16.16	Mitigation of adverse effects and enhancement measures.

DRAINAGE AND FLOOD RISK

NPS EN-1

4.10.13	Impacts of climate change and the latest UK climate projections.
5.8.9	The sequential test and locating the project in areas of lower flood risk.
5.8.10	Moving from the sequential test to the exception test.
5.8.11	Passing the exception test.
5.8.12	Increase in flood risk elsewhere, net loss of floodplain storage and flood flow.

5.8.15	Minimum requirements for Flood Risk Assessments.

NPS EN-3

2.10.85	Access tracks.
2.10.86	Existing drainage systems and watercourses.
2.10.87	Culverting existing watercourses or drainage ditches.

Local Policies

13.2.2. The Lincolnshire County Council (LCC) and North Kesteven District Council (NKDC) Local Impact Reports (LIRs) [REP1-088] [REP1-102] refer to the following policies:

- Central Lincolnshire Local Plan (CLLP) Policy S12: Water Efficiency and Sustainable Water Management.
- CLLP Policy S14: Renewable Energy.
- CLLP Policy S20: Resilient and Adaptable Design.
- CLLP Policy S21: Flood Risk and Water Resources.
- CLLP Policy S59: Green and Blue Infrastructure Network.
- Scopwick and Kirkby Green Neighbourhood Plan Policy 6: Flood Risk and Drainage.
- North Kesteven Flood Risk Assessment (2009 Revision Report).

13.3. THE APPLICATION

ASSESSMENT SCOPE, STUDY AREA, METHODOLOGY AND BASELINE

13.3.1. The applicant's assessment of matters relating to the water environment is set out in Chapter 15 of the Environmental Statement (ES) [APP-055], accompanying figures [APP-071] and appendices [APP-124] [APP-125]. The application is also supported by a Flood Risk Assessment (FRA) [AS-016] and the sequential and exception tests are set out in the Planning Statement [AS-018]. Cumulative water related effects are considered in Chapter 16 of the ES [APP-056]. Matters associated with groundwater are considered in Chapter 8 of this report.

13.3.2. For the purposes of the assessment, the site and a 1 kilometre (km) buffer has been considered as the study area to identify hydrological receptors that could be impacted by the construction, operation and decommissioning of the proposed development.

13.3.3. The ES considers potential effects on water quality during construction and decommissioning, water resources during construction and operation, and WFD matters during all phases of the development. The assessment undertakes a desk-based study to identify the existing hydrological features and water environment to inform the existing baseline and assess any potential effects caused by the proposed development.

13.3.4. Flood risk is assessed in the supporting FRA [AS-016]. This considers flood risk from tidal, fluvial, surface water, groundwater, sewers, reservoirs and artificial sources in line with NPS EN-1, the National Planning Policy Framework (NPPF) and its corresponding Planning Practice Guidance (PPG).

13.3.5. To establish baseline conditions a number of data sources were considered:

- Flood map for planning.
- Risk of flooding from surface water maps.
- Department for Environment, Food & Rural Affairs (DEFRA) MAGIC Map (drinking water safeguard zone (surface water), Sites of Special Scientific Interest, Special Areas of Conservation, Special Protection Areas).
- Statutory main river map.
- Catchment data explorer: water environment and WFD classifications.
- 1m LiDAR digital terrain model.
- Ordnance Survey Mapping.
- EA JFLOW data (national general flood modelling dataset).

13.3.6. In relation to the FRA, a range of data sources are utilised and are set out in Section 8 [AS-016].

13.3.7. The assessment includes embedded mitigation that includes a six metre offset of perimeter fencing from all existing ditches, vegetation management in accordance with the Outline Landscape and Ecology Management Plan (oLEMP) [APP-0142] and measures contained in the Outline Drainage Strategy (oDS) at Appendix A of the FRA [AS-016].

CONSTRUCTION PHASE

13.3.8. The ES notes [APP-055] that during construction a number of potential effects could occur. These include silt-laden runoff, causing sedimentation and pollution degrading water quality, pollution from spillages and leaks of fuels, oils and chemicals and increased demand on water resources.

13.3.9. A number of additional mitigation measures to minimise pollution are set out in the Outline Construction Environmental Management Plan (oCEMP) [APP-140]. With these taken into account the applicant considers that all potential effects during construction would be negligible.

OPERATIONAL PHASE

13.3.10. The assessment considers that with the additional mitigation set out in the Outline Operational Environmental Management Plan (oOEMP) [APP-143] that all effects during operation (and maintenance) would be negligible.

DECOMMISIONING PHASE

13.3.11. The ES considers that there are likely to be similar potential effects than those during the construction phase. With additional mitigation set out in the Outline Decommissioning Environmental Management Plan (oDEMP) [APP-146] the applicant considers that all effects would also be negligible.

FLOOD RISK

13.3.12. The FRA [AS-016] finds that the risk of flooding from tidal, groundwater, sewers, reservoirs, other development and 'other sources' to be low. In terms of fluvial, the FRA considers there could be a high risk, as solar photovoltaic (PV) panels are proposed to be located in Flood Zones 3a and 3b. The FRA also finds that there could be a very low to medium risk from surface water.

13.3.13. The applicant has undertaken sequential and exceptions tests [AS-018], which it considers are both passed and therefore it considers the proposed development should not be precluded on flood risk grounds.

WATER FRAMEWORK DIRECTIVE

13.3.14. The WFD Waterbodies Stage 1 Screening Technical Note [APP-124] identifies the closest WFD designated waterbodies to the site as being Metheringham Beck, Dorrington Dike and Ruskington Beck. The note concludes that with the appropriate mitigation measures in place the significance of effect from the proposed development on the WFD classified watercourses is considered to be negligible and not significant in Environmental Impact Assessment (EIA) terms. Further, it considers that no WFD Stage 2 Scoping or Stage 3 Assessment is required.

13.4. ISSUES CONSIDERED DURING THE EXAMINATION

THE SEQUENTIAL TEST

13.4.1. The ExA asked the applicant at Issue Specific Hearing (ISH) 1 [EV4-008] [EV4-009] to provide further justification for locating solar PV panels in flood zones 2 and 3. The applicant explained [EV4-008] [EV4-009] [REP1-073] that the vast majority of the site falls within Flood Zone 1 and it has sought to avoid siting land in Flood Zones 2 or 3, and that this approach is detailed in the Planning Statement, namely the Site Selection Report at Appendix 1 [AS-018]. The applicant also explained that there were areas of lower flood risk considered, however these were discounted because they were less suitable when other wider planning, environmental and design objectives were considered, for example reducing impacts on the setting of the Scopwick conservation area. The applicant concluded that it had considered other available land at lower risk of flooding and discounted it, taking into account wider sustainable development objectives.

13.4.2. The applicant also set out that it had held discussions with the EA who were content to see solar PV panels in such areas and that there was no sensitive electrical infrastructure (central inverters, springwell substation and collector compounds) located in Flood Zones 2 and 3.

13.4.3. The ExA requested further justification be provided to show why Flood Zone 1 land both within and surrounding the order limits could not be used instead. At Deadline (D) 1 the applicant provided an addendum to the Planning Statement [REP1-069] that contains an explanation for each plot of land that is not proposed to accommodate solar PV panels both within the order limits

and for land that surrounds it that was considered available from Blankney Estates.

13.4.4. At ISH4 [EV7-004] [EV7-005] the ExA asked when compulsory acquisition (CA) is being exercised as part of the proposed development, whether using the unavailability of land to rule out Flood Zone 1 land surrounding the order limits, as an alternative was justified.

13.4.5. The applicant responded [EV7-004] [EV7-005] [REP3-075] by setting out that the potential to be granted CA powers does not automatically make land reasonably available. The ability to seek CA powers may mean land is theoretically “available” to the applicant, however, it does not consider the ability to seek those powers means the land is “reasonably” available, or using the wording from the Planning Practice Guidance, that there is a “reasonable prospect” of CA powers being granted in this context.

13.4.6. The applicant also explained that Blankney Estates did not identify the land to the north of the order limits as available because it is good quality farmland intended to remain in agricultural use. The applicant also set out that in applying the sequential test, it is reasonable to consider whether land is already fulfilling an appropriate planning purpose. In this case, the land’s importance to ongoing agricultural use as part of the estate was a relevant factor in determining its unavailability for solar development.

13.4.7. Several IPs, such as [REP3-101] [REP3-111] raised concerns that the sequential test had not been met. This included that some alternatives had not been considered, such as land to the west of Springwell West and to the east of the A15. It was suggested that these areas were better locations. The applicant [REP4-048] responded by setting out that it considers it has undertaken a robust site selection process and sequential test. It referred to its other responses, as already set out above.

13.4.8. In its closing statement [REP5-030] the applicant noted alterations to the PPG in relation to the application of the sequential test:

- Paragraph: 027a (Reference ID: 7-027a-20220825) updated to further emphasise that the sequential test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need. For infrastructure proposals of regional or national importance, the PPG continues to recognise that this could be split across a number of alternative sites at lower risk of flooding, but has been updated to include clarification that this is only where those alternative sites would be capable of accommodating the development in a way which would still serve its intended market(s) as effectively.
- Paragraph: 027 (Reference ID: 7-027-20220825) updated in relation to the application of Paragraph 175 of the NPPF, which applies to the use of the sequential test for areas known to be at risk now or in the future from any form of flooding. The update confirms that, in applying Paragraph 175, a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout,

design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by the EA flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.

13.4.9. The applicant considered that these changes further support its approach and noted that the FRA [REP1-050] ensures that the proposed development would not cause or increase the risk of surface water flood risk elsewhere; therefore, the sequential test need not be applied.

OPERATIONAL REASON FOR SOLAR PV PANELS IN FLOOD ZONE 3B

13.4.10. The ExA noted at ISH1 [EV4-008] [EV4-009] that paragraph 5.8.41 NPS EN-1 sets out that energy projects should not normally be consented within Flood Zone 3b, but where essential energy infrastructure has to be located in such areas, for operational reasons, they should only be consented if the development will not result in a net loss of floodplain storage, and will not impede water flows. The ExA asked the applicant whether there is an operational reason for solar PV panels to be located in Flood Zone 3b.

13.4.11. The applicant noted [EV4-008] [EV4-009] [REP1-073] that it was seeking to maximise the capacity of solar that could be delivered within the agreement with National Grid. The applicant continued that the areas of Flood Zones 2 and 3 are small areas on the edges of fields so were considered suitable from a planning and environmental perspective.

13.4.12. The ExA asked if the solar PV panels are critical to the operation of the plant. The applicant set out that although it is not critical to the operation of the plant for there to be panels in Flood Zone 3b, they can only be located where there is sufficient capacity to connect projects to the National Grid and so to this extent, there is an operational reason for them being in this location and in maximising renewable energy generation. The applicant went on to also say that it has considered other available land at lower risk of flooding and discounted it, taking into account wider sustainable development objectives, and so this renewable energy capacity cannot be located elsewhere. Further, NPS EN-1 only provides that projects should not normally be consented in Flood Zone 3b rather than that they should never be.

13.4.13. The applicant also referred to a fall-back position whereby permission has been granted under the Town and Country Planning Act (reference 14/0937/FUL) for a solar farm that would see solar PV panels located in very similar areas of Flood Zone 3b as the proposed development. The ExA asked if the extant planning permission was a realistic fall-back permission and if the permission could be implemented if development consent for the proposed development was not granted. The applicant set out that in the absence of the proposed development the extant planning permission could be implemented and therefore signifies a realistic fallback position in planning terms and is therefore a material consideration.

13.4.14. At D1 the applicant provided more information through an addendum to the Planning Statement [REP1-069]. This set out that:

- Renewable energy infrastructure can only be located where there is capacity for the National Grid to take that energy to where it is needed. The need is also such that we need to be doing as much as possible, in suitable areas, as quickly as possible.
- Operationally, utility scale solar farms can only be located where they can connect to the National Grid and the applicant considered a number of search criteria in identifying suitable sites.
- It should be recognised that this policy applies to all energy developments, including those with substantial permanent buildings.
- As recognised in the FRA, solar panels do not have the same impact on the flood plain as solid built infrastructure and water can flow freely underneath the panels. It is for this reason that the EA is generally content with solar panels to be located in areas of flood risk.
- Annex 3 of the NPPF is informative in terms of how it considers solar farms in the context of essential infrastructure, as a material consideration for the SoS's decision. It lists solar as essential infrastructure from a flood risk vulnerability classification perspective, for the purposes of the application of the exception test. Solar farms are listed as a type of essential infrastructure which is suitable in Flood Zones 2 and 3 and there is no policy requirement to provide "operational reasons" in the same way as there is for other essential utility infrastructure "which has to be located in a flood risk area for operational reasons".
- In this case, the areas within Flood Zones 2 and 3 are on field margins, where the rest of the field would be used for solar PV panels. If the areas within Flood Zone 3b were not being used for solar, they would not be used for any other practical purpose. Given the urgent need for renewable energy and therefore the need to maximise energy generation and available grid capacity, there is therefore a strong operational reason for the inclusion of solar PV panels in this location.

13.4.15. This matter was further discussed at ISH4 [EV7-004] [EV7-005] and the ExA questioned whether the applicant's interpretation of operational reasons is what is envisaged by paragraph 5.8.41 of NPS EN-1 or whether operational reason should mean something to do with the proposed development itself, for example its required layout. The ExA questioned whether simply generating renewable energy infrastructure in broad terms could be considered an operational reason and if so, whether the policy wording would be seemingly superfluous.

13.4.16. The applicant [EV7-004] [EV7-005] [REP3-075] added that the proposed development represents an efficient use of land. The applicant also acknowledged that solar PV panels located in Flood Zone 3b may not be absolutely essential to the operation of the proposed development but reiterated its position set out above. The applicant acknowledged the complexity of interpreting "operational reasons" under paragraph 5.8.41 of NPS EN-1, noting that the term is undefined and that the requirement needs

to be applied across a broad range of types of energy infrastructure covered by NPS EN-1.

13.4.17. In its post hearing note [REP3-075], the applicant went on to set out that in response to the point from the ExA that the test in paragraph 5.8.41 of EN-1 could be met by any development caught by NPS EN-1, it considered 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). Further, there are various aspects of associated development, likely to be consented alongside a solar farm, 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 Nationally Significant Infrastructure Project (NSIP), but not necessarily to "maximising" that energy 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 includes siting panels in Flood Zone 3b.

13.4.18. The ExA remained concerned and proposed a new requirement in its schedule of proposed changes to the dDCO [PD-009] that would restrict any development being located in areas of Flood Zone 3b. In reply, the applicant [REP4-050] disagreed with the need for the proposed requirement and reiterated the points made above. However, it noted that if the ExA or the SoS disagreed with the applicant's position, it suggested without prejudice to its case that any such requirement should instead only restrict above ground infrastructure.

FLOOD RISK IN SCOPWICK

13.4.19. Numerous IPs, including [RR-190] [RR-369] [REP1-136] [REP3-093] have raised concerns about flood risk in and around Scopwick, including:

- The use of piling and the potential to damage fragile clay drainage pipes across the site.
- The artesian effect around Scopwick and piling could push the groundwater up into the upper stratum, causing flood risk to the village of Scopwick.
- Being able to manage the anticipated volume of water and use of swales and vegetation absorption to counter the flows of rainfall.
- Lack of external supervision of construction works and ongoing maintenance.

13.4.20. The ExA asked the applicant through ExQ1.14.2 [PD-007] to respond to these concerns. The applicant [REP1-071] set out that:

- There are likely to be land drains which will assist with the drainage of arable land within the order limits. The presence and location of land drains are unconfirmed given the historic and informal nature of the construction of land drainage. Should any land drain be damaged during the construction phase any resultant flood risk will be very localised.
- If existing land drainage systems are damaged during construction works, they will either be reinstated or diverted with equivalent drainage systems, to ensure no lasting changes compared to the baseline. This is secured in the oCEMP [REP4-025].
- An intrusive site investigation was completed in April and May 2023, which includes information on the underlying groundwater regime across the site. The data, along with the confirmed ground conditions would be used to determine the most appropriate foundation solutions and sustainable drainage for the scheme.
- Should it be required, a further phase of site investigation would be undertaken to obtain the necessary details. Once available, the data would provide site-specific information on the groundwater levels across the site (including around the village of Scopwick). This will ensure that data are available for the preparation of a suitably detailed piling risk assessment, should piled techniques be required for any of the infrastructure or solar PV development in the area around Scopwick.
- Any precipitation falling on each solar panel will runoff the panels and flow towards / infiltrate in the rain shadow of the down-slope modules. This feature will enable the use of the rain shadow area of the panels to maintain the infiltration potential of the site.
- A surface water drainage system will be developed as part of the development in accordance with the FRA, Appendix 1: oDS [AS-016] which would capture and manage any additional run off from the site and ensure that pre development (QBAR greenfield) run off is maintained with no additional flows entering Scopwick Beck or any other watercourse.
- The retention of flows to QBAR greenfield rates will result in a reduced peak flow from current natural runoff from the site during extreme rainfall events, offering a reduction in offsite flows for all rainfall events in excess of the QBAR (approx. 1 in 2 year) event. Excess flows will be retained on site in suitably designed attenuation features.
- The applicant would have construction managers full time on site for the duration of the construction period. They will be responsible for ensuring that the requirements of the final construction environmental management plan are adhered to.

13.4.21. At ISH4 [EV7-004] [EV7-005], the ExA noted that whilst it is understood that drainage pipes could be replaced if encountered during open cut cable installation, it was unsure how it would be known if drainage pipes had been damaged from piling for example. The applicant in response [EV7-004] [EV7-005] [REP3-075] explained:

- A careful process has been undertaken to identify existing drainage and utility features to the best of the applicant's ability, in order to protect them.

- During early design, searches were conducted using commercially available databases and verified through discussions with utility owners, statutory consultees, and stakeholders such as landowners, whose records of non-commercially mapped features were incorporated.
- Pipework information from Blankney Estates was received and included in the design. All data was amalgamated into a single Computer-Aided Design (CAD) model, coordinated with the solar PV panels layout to ensure appropriate mitigation measures are implemented.
- Geophysical surveys were also carried out to confirm the physical location of features, rather than relying solely on drawings.

13.4.22. The applicant also acknowledged the difficulty in identifying all drainage features and recognised the potential for damage despite the care taken. It referred to commitments in the Outline Soil Management Plan (oSMP) and the oCEMP [REP4-025] which require the remediation or replacement of any drainage impacted by the development. The applicant noted that the oCEMP also includes obligations on the environmental manager to conduct site walkovers and monitor the site, with any breakages identified to be repaired in accordance with those commitments. Further, these measures are intended to ensure that adequate drainage systems remain in place and that any issues arising during construction are effectively mitigated.

OTHER MATTERS

13.4.23. The cumulative effects assessment [APP-056] identifies that there could be potential cumulative effects with the National Grid Navenby Substation, two approved residential developments (20/0029/FUL and 23/1283/ FUL), and one application at RAF Digby (24/0959/FUL). The assessment considers that assuming appropriate mitigation would be in place for the other developments, as is good practice, then there would be no significant inter-project cumulative effects. The ExA sees no reason to disagree with this conclusion.

13.4.24. At the end of the examination there were no outstanding matters with regard to the water environment between the applicant and the EA [REP3-065] or LCC as lead local flood authority [REP5-021].

13.5. EXA'S CONCLUSIONS ON THE WATER ENVIRONMENT

THE SEQUENTIAL TEST

13.5.1. The ExA is satisfied that the applicant has undertaken an appropriate approach to site selection and the consideration of alternatives, as concluded in Chapter 4 of this report. The ExA notes that flood zones were a consideration during the site selection process, as set out in the Planning Statement [AS-018].

13.5.2. The ExA considers that the additional information provided during the examination [REP1-069], suitably demonstrates that both land within and surrounding the order limits have other wider sustainable development

objectives, such as seeking to retain higher grades of best and most versatile (BMV) agricultural land or seeking to mitigate effects on the settings of conservation areas for example.

13.5.3. In terms of land to the north of the order limits, this was ruled out as being considered unavailable from the landowner Blankney Estates. Notwithstanding the ExA's questioning about the use of CA powers in this regard, the ExA accepts that retaining this land is important to the ongoing and wider farming operation on the estate and considers this constitutes a wider sustainable development objective in itself.

13.5.4. Given all of this, the ExA is content that the sequential test has been met. The exception test must also then be met to justify development being located in Flood Zones 2 and 3. Paragraph 5.8.11 of NPS EN-1 sets out that to do so the proposed development would need to provide wider sustainability benefits to the community that outweigh the flood risk and demonstrate the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

13.5.5. The ExA considers that the delivery of low carbon renewable energy and benefits to climate change are significant, as detailed in Chapter 4 of this report. In addition, the proposed development also delivers local community benefits through the additional proposed public rights of way and permissive paths, biodiversity net gain and environmental enhancements. The ExA is of the view that these provide wider sustainability benefits to the community that outweigh the flood risk in this case.

13.5.6. The Planning Statement [AS-018] sets out that the location of solar PV panels within Flood Zone 3 does not materially alter the ability of the Flood Zone to act as a functional flood plain given the height of the panels above the maximum credible flooding scenario (from all sources) and the type of mounting structures proposed which would allow flood water to pass freely beneath it. Further, through the design of the proposed development no built structures (central inverters, springwell substation and collector compounds) would be located within Flood Zones 2 or 3. The FRA [REP1-050] concludes that the proposed development will not increase flood risk elsewhere. The ExA agrees with this conclusion and considers the proposed development meets the requirements of the exception test set out in paragraph 5.8.11 of NPS EN-1.

13.5.7. The ExA notes the changes made to the PPG towards the end of the examination in relation to the sequential test, as set out above. The ExA also acknowledge the changes to the PPG in terms of what land should be considered as "available". However, it is considered that none of these changes alter the ExA's overall conclusions and have therefore not been considered any further.

OPERATIONAL REASONS FOR SOLAR PV PANELS IN FLOOD ZONE 3B

13.5.8. The ExA is mindful that despite the need to meet the sequential and exception tests, NPS EN-1 also states that energy projects should not normally be consented within Flood Zone 3b and where essential energy infrastructure has to be located in such areas, for operational reasons, they should only be consented if the development would not result in a net loss of floodplain storage, and would not impede water flows.

13.5.9. The ExA questioned the applicant throughout the examination on this matter. The ExA disagrees with the applicant's interpretation of "operational reason" and that simply delivering renewable energy infrastructure or energy producing components of a renewable energy project or being in the vicinity of a grid connection represent an operational reason. This is on the basis that to take such an approach would mean that most, if not all, renewable energy projects covered by NPS EN-1 would automatically be considered an operational reason and the need for paragraph 5.8.41 would be seemingly redundant.

13.5.10. Consequently, the ExA considers that the operational reason should have some relation to the development itself, such as its layout for example. As set out above, the applicant accepts that locating solar PV panels in Flood Zone 3b is not essential to the operation of the proposed development. The ExA therefore concludes that the proposed development conflicts with paragraph 5.8.41 of NPS EN-1.

13.5.11. Whilst the ExA considers that the FRA [REP1-050] demonstrates that the proposed development would unlikely result in a net loss of floodplain storage and would not impede water flows, this does not overcome the conflict with paragraph 5.8.41 of NPS EN-1, as the ExA considers an operational reason must be demonstrated before these factors become of relevance. The ExA also considers the fact that Annex 3 of the NPPF considers solar farms to be essential infrastructure does not alter this conclusion.

13.5.12. The ExA acknowledges the extant planning permission that could see solar PV panels located in the same or similar areas of flood zone 3b should it be implemented. However, the ExA is mindful that the permission was granted under the Town and Country Planning Act 1990 (as amended), a significant period of time ago and under a different planning policy context to NPS EN-1. Further, despite the applicant asserting that the permission would be implemented should the proposed development be refused, the ExA has some doubts in this regard. Particularly given permission was granted in September 2014, a significant period of time ago and other than works to formally implement the consent as detailed in the applicant's reply to action point 11 from ISH1 [REP1-073], there does not appear to have been any attempt to fully deliver the development. Having regard to all of this, the ExA gives little weight to the suggested fall-back position.

13.5.13. The ExA recommends the following requirement in its rDCO to overcome this conflict:

'Flood Zone 3b

21. 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.'

13.5.14. As acknowledged above by the applicant and as shown in the FRA [REP1-050] the areas of Flood Zone 3b are all located on the periphery of fields proposed to be used for solar PV panels and are relatively small areas. On this basis, the ExA considers it would not affect the feasibility of the proposed development and would not materially alter the level of renewable energy that would be delivered by the proposed development. The applicant has also not raised any concerns in this regard.

13.5.15. The applicant's response to the ExA's schedule of proposed changes [REP4-050] suggested that should the ExA disagree with the applicant's position then any requirement imposed should allow any underground infrastructure. The ExA considers that this would still constitute development for the purposes of paragraph 5.8.41 of NPS EN-1 and has therefore not included this in its recommended requirement.

FLOOD RISK IN SCOPWICK

13.5.16. The ExA is mindful of the strong concerns expressed about flood risk in and around Scopwick by IPs. Through the examination the ExA has sought to understand how the applicant would minimise and mitigate any risk of this occurring.

13.5.17. The ExA is content that the applicant has undertaken a robust FRA [REP1-050] and notes that the EA and LCC as lead local flood authority has not raised any concerns in this regard.

13.5.18. The ExA acknowledges the difficulty in identifying the clay drainage pipes that are located across the site. However, the ExA is satisfied that the applicant has made all reasonable attempts, as set out above, to identify existing features, including drainage pipes, across the site. The ExA is content that this would allow suitable foundation type and piling works to be selected. Further, the ExA is satisfied that the procedures for handling any damaged drainage, as secured in the oCEMP [REP4-025] would ensure that any risks are minimised.

13.5.19. The ExA notes that the oCEMP includes obligations on the appointed environmental manager to conduct site walkovers and monitor the site, with any breakages identified to be repaired in accordance with those commitments. The ExA is content that this would ensure that adequate drainage systems remain in place and that any issues, including damage to clay pipes arising during construction or piling works would be identified and effectively mitigated.

13.5.20. The ExA is also mindful that the applicant will finalise a surface water drainage system in accordance with the FRA, Appendix 1: oDS [AS-016] which would capture and manage any additional run off from the site and ensure that pre development (QBAR greenfield) run off levels are maintained with no additional flows entering Scopwick Beck or any other watercourse.

13.5.21. Having regard to all of the above, the ExA concludes that there would not be any unacceptable flood risk to Scopwick or any other village surrounding the order limits and there would be suitable procedures in place to remedy any damaged caused to existing drainage systems during the construction of the proposed development.

EXA'S OVERALL CONCLUSION

13.5.22. The ExA has found that the proposed development meets both the sequential and exception tests for flood risk.

13.5.23. However, the ExA considers that the proposed development runs contrary to paragraph 5.8.41 of NPS EN-1 as there is no demonstrable operational reason to locate solar PV panels in areas of Flood Zone 3b. The ExA has therefore included a requirement in its rDCO that restricts any development occurring in such areas.

13.5.24. The ExA considers that the applicant has undertaken a robust FRA and with the measures secured by the oCEMP [REP4-025] and oDS [AS-016] there would be no unacceptable risk of flooding to Scopwick and other surrounding villages. Further, the ExA is content that suitable procedures would be in place to remedy any damage caused to existing drainage systems during the construction of the proposed development.

13.5.25. Overall, and with the recommended additional requirement in the rDCO, the ExA concludes that the proposed development complies with relevant national and local policy, as set out in the table above, including the WFD. The ExA therefore considers the water environment to be a matter of neutral weight in the planning balance.

13.5.26. If the SoS disagrees with the ExA on the need to restrict development in areas of Flood Zone 3b, the ExA considers that the water environment would carry a little weight against the making of the order.

14. OTHER MATTERS

14.1. INTRODUCTION

14.1.1. This chapter considers the effect of the proposed development in relation to matters that were considered in the examination but not considered to be principal issues as no significant issues were identified. Topics included in this category of other matters are:

- Waste management.
- Mineral safeguarding.
- Aviation and defence.
- Major accidents and disasters.

14.2. WASTE MANAGEMENT

14.2.1. This section considers the effect of the proposed development in relation to waste management.

POLICY BACKGROUND

NPS EN-1

5.15.14	System for managing waste.
5.15.15	Matters for the Secretary of State (SoS) to be satisfied about.
5.15.16	Waste management measures.
5.15.19	Resource efficiency and waste reduction targets.

Local Policies

14.2.2. The Local Impact Report (LIR) provided by Lincolnshire County Council (LCC) [REP1-088] identified Policy W1 (Future requirements for new waste facilities) as a relevant policy in the Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies (2016) (LMWLP).

THE APPLICATION

14.2.3. The applicant's approach to waste management is set out in the following documents:

- Waste management during construction is set out in the Outline Site Waste Management Plan (oSWMP), appendix to the Outline Construction Environmental Management Plan (oCEMP) [APP-0140].
- Waste management during operation is set out in the Outline Operational Environmental Management Plan (oOEMP) [APP-0143].
- Waste management during decommissioning is set out in the Outline Decommissioning Environmental Management Plan (oDEMP) [APP-0146].

14.2.4. The applicant states [APP-0140] that materials that are generated during construction are likely to include inert construction materials, as well as packaging and materials generated during the installation of solar panels. Waste arising from construction is not anticipated to consist of substantial amounts of waste electrical or electronic equipment (WEEE).

14.2.5. The applicant explains [AS-018] that very few waste streams would arise from the operational phase. No materials are required to be processed, and the solar photovoltaic (PV) arrays do not produce any waste while in operation. The only waste arising from the operational phase is expected to be related to any ad-hoc maintenance and replacement of components.

14.2.6. The oDEMP [APP-0146] identified that the proposed development is anticipated to generate a substantive amount of WEEE at decommissioning, including solar PV panels, batteries, and substation equipment, as well as other smaller quantities of WEEE from supporting electrical infrastructure.

ISSUES CONSIDERED DURING THE EXAMINATION

14.2.7. At ExQ1.15.1 [PD-007] the ExA requested an estimate, by type and quantity, of types of waste produced during the construction and operation phases to demonstrate compliance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA regulations). In response the applicant [REP1-071] provided the anticipated volumes of waste from the proposed development during construction, operation and decommissioning.

14.2.8. In its LIR [REP1-088], LCC stated that it had serious concerns about the lack of current capacity for recycling solar panels, particularly at decommissioning but also with operational failures, weather related impacts and the cumulative impacts alongside other proposed nationally significant infrastructure project (NSIP) scale solar farms, particularly in terms of waste management capacity. LCC stated that the applicant needed to indicate what they propose to do if such capacity is not forthcoming by the time of decommissioning and assess the impacts accordingly.

14.2.9. The applicant responded [REP2-023] making the following points:

- The current solar panel waste generation is low, so there is little demand for these facilities at present, hence the limited available capacity that is currently available.
- The WEEE Regulations place obligations on those who place solar panels on the market to finance the costs of collection, treatment, recovery and environmentally sound disposal.
- It is anticipated in the future that private sector waste companies will develop facilities which reuse, recycle, or recover end of-life solar panels to respond to market demands.

14.2.10. The applicant provided a further assessment of the cumulative impacts of waste generation in combination with other known solar developments within Lincolnshire and 1km into Nottinghamshire at appendix 3 of its response to deadline (D) 1 submissions [REP2-023]. The assessment concluded that

cumulative impacts would result in 0.69% of regional landfill capacity to be required under the absolute worst-case (where all construction and demolition waste goes to landfill) assessment and 0.22% under the realistic worst-case (with 70% recovery).

14.2.11. The applicant stated that the commitment to regularly review waste forecasts and identify the resultant location of any waste was secured within the updated oSWMP (appendix to the oCEMP) [REP2-015]. The applicant explained that the SWMP used for the operational and decommissioning phases will include the measures detailed in the oSWMP, and that this along with necessary updates is secured within paragraph 2.10.4 of the oOEMP [REP2-018] and paragraph 2.10.5 of the oDEMP [REP2-021].

14.2.12. At ISH3 [EV6-004] [EV6-005] the ExA asked parties whether a requirement should be added to the dDCO that restricted the replacement of solar PV panels to 5%, as assumed in the ES. Refer to Chapter 4 of this report for a detailed discussion on this matter.

14.2.13. The oOEMP was revised at D3 [REP3-039] to include a replacement schedule. This included a commitment for the applicant to submit a planned maintenance schedule every 12 months from the date of final commissioning to the relevant local planning authority which will detail the extent and nature of any scheduled maintenance including the anticipated amount of waste that would be recycled and landfilled.

14.2.14. At D3, the Environment Agency (EA) noted [REP3-078] that the applicant's calculations of cumulative waste arisings [REP2-023] assessed annual arisings (assuming decommissioning across a five year period) against overall landfill capacity. The EA stated that this was incorrect as landfill availability is an overall and finite total rather than an annual capacity.

14.2.15. The applicant updated its calculation of cumulative waste arisings at D4 [REP4-048] and D5 [REP5-028] to respond to the EA and LCC's comments on the cumulative waste arising calculations. The applicant's revised waste technical note concluded that cumulative impacts would result in 4.01% of regional landfill capacity to be required under the absolute worst-case assessment and 1.2% under the realistic worst-case.

14.2.16. The Statement of Common Ground (SoCG) between the applicant and LCC [REP5-021] records the matters of recycling and operational waste as not agreed. Whilst LCC confirmed satisfaction with the revised waste arisings figures, LCC stated that its overarching concerns about waste arisings and recycling capacity from this development and cumulatively with other developments remain. LCC also expressed concern with the assumption of 0.05% solar panel failure rate during the operational phase.

14.2.17. In the SoCG with LCC, the applicant restated the position it had previously made that it does not anticipate any significant cumulative effects on waste during construction, operation or decommissioning, as it is anticipated that private sector waste companies will develop these facilities to respond to market demands.

EXA'S CONCLUSIONS ON WASTE

14.2.18. As mentioned in Chapter 4 of this report, the ExA accepts that there are currently limited recycling and other waste management facilities for solar PV panels. However, the ExA notes that whilst there isn't currently a great demand for such facilities, this is very likely to change once solar farms start to be decommissioned in the future. The ExA agrees with the applicant's view that the waste management industry will likely respond to the demand when it is needed.

14.2.19. The ExA is also mindful that Lincolnshire and surrounding waste planning authorities will also play a role in planning for such waste streams in the future through their waste local plans. Given this, the ExA considers that the applicant's position that there would be no significant cumulative effects on waste during construction, operation or decommissioning to be reasonable.

14.2.20. As also mentioned in Chapter 4 of this report, the ExA accepts that Article 5(3) and Schedule 16 of the dDCO would ensure that the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the ES would not be undertaken and considers that this gives the relevant planning authority sufficient control, including in relation to any cumulative effects.

14.2.21. The ExA is content with the waste assessment methodology and the consideration given to recycling. The ExA considers that appropriate mitigation is secured, including in the oSWMP (within the oCEMP) [REP4-025], oOEMP [REP4-032], and oDEMP [REP4-035] and the ExA is content that it is unlikely there would be any significant adverse impacts on existing waste facilities. The ExA is therefore satisfied in relation to paragraphs 5.15.12 to 5.15.16 of NPS EN-1.

14.2.22. Taking all relevant matters into consideration, the ExA concludes that waste management matters are neutral in the planning balance.

14.3. MINERAL SAFEGUARDING

14.3.1. This section considers the effect of the proposed development in relation to mineral safeguarding.

POLICY BACKGROUND

NPS EN-1

5.11.19	Safeguarding mineral resources.
5.11.28	Mineral safeguarding areas and mitigation measures.

Local Policies

14.3.2. The LIR provided by LCC [REP1-088] identified the following relevant local policies in the LMWLP:

- Policy M11 - Safeguarding of Mineral Resources.

- Policy M12 - Safeguarding of Existing Mineral Sites and Associated Minerals Infrastructure.

THE APPLICATION

14.3.3. The applicant's assessment of matters relating to mineral safeguarding is contained within the Mineral Safeguarding Assessment at Appendix 2 of the Planning Statement [AS-018].

14.3.4. Two existing mineral sites, Brauncewell Quarry and Longwood Quarry adjoin the proposed development boundary. Both are safeguarded by Policy M12 of the LMWLP.

14.3.5. The applicant explains that the majority of the proposed land use within the site-specific minerals safeguarding buffer is for green infrastructure, which would not impact the operation of either site. Furthermore, the applicant states that the proposed development is of a reversible nature, and after 40 years, the land would be returned to its existing use, any minerals would not be permanently sterilised and would be available to exploit if required at a future date. Therefore, the applicant does not consider there to be any conflict with the mineral safeguarding policies.

ISSUES CONSIDERED DURING THE EXAMINATION

14.3.6. In its LIR [REP1-088], LCC raised concerns in relation to proposals being located immediately adjacent to Brauncewell and Longwood Quarries as this could potentially sterilise mineral resources in land next to these sites that may otherwise have a reasonable prospect of being considered for extraction within the next 40 years.

14.3.7. The applicant responded [REP2-023] to state that the proposed development would not impede the continued operation or potential future expansion of these quarries outside of the proposed order limits. The applicant pointed out that the overlap between the mineral safeguarding area and the proposed development would be minimal, as shown in the Mineral Safeguarding Assessment (appendix 2 of [AS-018]). The applicant also reiterated that the development has been designed to ensure that underlying mineral resources would remain undisturbed and could be accessed for future extraction following decommissioning.

14.3.8. LCC confirmed at D3 [REP3-079] that it was satisfied that the applicant had provided further information to demonstrate that the proposals would not prejudice the operation of the safeguarded mineral sites at Brauncewell and Longwood Quarries.

EXA'S CONCLUSIONS ON MINERAL SAFEGUARDING

14.3.9. The ExA is content that the applicant has adequately addressed concerns raised by LCC in its LIR.

14.3.10. The ExA is content that the applicant has safeguarded mineral resources on the proposed development site as far as possible and has taken into account

the long-term potential of the land use after decommissioning in accordance with paragraphs 5.11.19 and 5.11.28 of NPS EN-1 and local policies in the LMWLP. The minerals resource would not be permanently sterilised.

14.3.11. Taking all relevant matters into consideration, the ExA concludes that mineral safeguarding matters are neutral in the planning balance.

14.4. AVIATION AND DEFENCE

14.4.1. This section considers the effect of the proposed development in relation to aviation and defence. Refer to Chapter 9 of this report for consideration of glint and glare effects on aviation.

POLICY BACKGROUND

NPS EN-1

5.5.39	Bodies to be consulted.
5.5.40	Effects to be assessed.
5.5.49	Matters for the SoS to be satisfied about.
5.5.50	The operation and safety of aerodromes.
5.5.60	When consent may be granted.

Local Policies

14.4.2. The LIR provided by North Kesteven District Council (NKDC) [REP1-102] identified Policy S84 (Ministry of Defence Establishments) as a relevant policy in the Central Lincolnshire Local Plan 2023-2043 (CLLP).

THE APPLICATION

14.4.3. The proposed development falls partially within the Ministry of Defence (MoD) safeguarding zones as listed below:

- Technical safeguarding zone, at Royal Air Force (RAF) Digby.
- Aerodrome height safeguarding zones for RAF Barkston Heath, RAF Cranwell and RAF Waddington.
- Aerodrome statutory birdstrike safeguarding zones for RAF Barkston Heath, RAF Cranwell and RAF Waddington.

14.4.4. The applicant explains that it has amended the scheme in response to MoD specific requests regarding the technical safeguarding zone. The Design Approach Document (DAD) [APP-0137] explains that solar PV development was removed from 5 parcels of land to the north of Navenby Lane.

14.4.5. The applicant stated [AS-018] that the height of the proposed development does not pose an issue for the safe operation of the aerodromes, as it is well below the MoD height threshold of 45.7 metres (m) for the closest aerodrome (RAF Cranwell). The applicant considers that the design of the proposed development would not result in an increased risk to bird strike.

14.4.6. The applicant does not identify any matter that would result in the proposed development presenting a safety or security related impact to the MoD and its assets.

ISSUES CONSIDERED DURING THE EXAMINATION

Matters raised by the MOD

14.4.7. The MoD confirmed in its relevant representation (RR) [RR-278] that the proposed development would not cause any physical impacts upon aerodrome height safeguarding requirements and it had no safeguarding concerns or requirements in respect of potential glint and glare effects.

14.4.8. The MOD provided suggested wording in its RR for requirements in the draft development consent order (dDCO) relating to bird strike hazard, deployment of cranes or high reaching plant equipment in proximity to RAF Digby, and electrical noise emissions.

14.4.9. Refer to Chapter 6 (biodiversity) of this report for further information on the discussion surrounding the wording of requirement (R) 10 in the dDCO (final version [REP5-004]) in relation to bird strike hazard. Refer to Chapter 11 (population) of this report for further information on the discussion surrounding the wording of R20 of the dDCO in relation to electrical noise.

14.4.10. With regard to the MoD's concern about the deployment of cranes or high reaching plant equipment in proximity to RAF Digby, at D2 the applicant updated the oCEMP, oOEMP and oDEMP (final versions [REP4-025] [REP4-032] [REP4-035]) to include the provisions and works management plan components requested by the MoD. The dDCO was also updated at D4 (final version [REP5-004]) to include the MoD as a consultee to the oCEMP, oOEMP and oDEMP in requirements R12, R13 and R19 respectively.

14.4.11. The signed SoCG between the applicant and the MoD [REP5-024] records all matters in relation to aerodrome and technical site safeguarding as agreed.

Microlight aircraft site

14.4.12. An interested party (IP) [RR-337] raised concern about the potential effects of the proposed development on a registered microlight aircraft site at Hill Top Farm. In response to ExQ1.15.3 [PD-007], the applicant stated [REP1-071] that the Civil Aviation Authority (CAA) have not raised any concerns to the applicant pertaining to the potential effects and that engagement with Hill Top Farm Microlights is ongoing.

14.4.13. IPs raised further concerns at D1 and D3 [REP1-159] [REP3-107] [REP3-115] making reference to the Combined Aerodrome Safeguarding Team (CAST) advice note, 'Renewable energy developments: solar photovoltaic developments CAST Aerodrome Safeguarding Guidance Note, July 2023'. Specifically, the IPs stated that, in line with the CAST guidelines, the developers should provide the aerodrome operator with adequate technical

and safety assurance documentation which fully addresses the safety impacts identified in the guidance.

14.4.14. In response to ExQ2.15.3 [PD-010], the applicant stated [REP4-049] that the proposed development accords with the CAST guidance (including the most recent February 2025 version), particularly in relation to the consideration of safety considerations, engine failure after take-off, rescue and firefighting services and birds and wildlife. The applicant provided the following examples of how the proposed development accords with the guidance:

- Impacts upon air traffic service personnel and pilots has been assessed within the glint and glare study [REP1-028].
- The applicant has engaged with aerodromes in relation to the 'loss of land' in the event of an emergency landing as a result of engine failure after take off.
- The potential for solar panels to attract nesting birds or other wildlife has been discussed with the MOD and mitigation in the form of lateral clearances and setback distances is detailed and secured within the outline Landscape and Ecology Management Plan [REP3-037].
- The applicant has engaged with the aerodrome operators in relation to rescue and firefighting services. No impacts are anticipated due to the distance from operational airfields and due to the available access between and into solar PV fields if required.
- The applicant has engaged with aerodrome operators outlining the distances between electrical infrastructure and communication, navigation and surveillance equipment.
- The applicant has engaged with aerodromes and safeguarding bodies to understand the sensitive receptors when undertaking technical assessments.

14.4.15. At D3, an IP [REP3-111] raised concern that no infrastructure should be within 1,000m of the Hill Top Farm airfield as per CAA advice. The applicant responded [REP4-048] that the most relevant reference to a 1,000m measurement is the '1000m off aerodrome rescue and firefighting services response areas' as mentioned in the CAST guidance note referred to above. The applicant stated that this distance is not an absolute prohibition but considered as a precautionary buffer.

EXA'S CONCLUSIONS ON AVIATION

14.4.16. With reference to Chapter 9 (landscape and visual) of this report, the ExA is content that there is unlikely to be significant glint and glare impacts on aviation.

14.4.17. No concerns were submitted by the Met Office, CAA or National Air Traffic Services. The ExA is content that the concerns raised by the MoD have been adequately addressed to the agreement of both parties. With regards to the microlight aircraft site at Hill Top Farm, the ExA is satisfied that the proposed development accords with CAA guidance in relation to renewable energy developments and that the guidance does not prohibit development within 1,000m of the airfield.

14.4.18. The ExA is content that the proposed development would be unlikely to result in any significant adverse effects in relation to aviation. The ExA considers that the proposed development complies with paragraphs 5.5.39, 5.5.40, 5.5.49, 5.5.50 and 5.5.60 of NPS EN-1.

14.4.19. Taking all relevant matters into consideration, the ExA concludes that aviation and defence matters are neutral in the planning balance.

14.5. MAJOR ACCIDENTS AND DISASTERS

14.5.1. This section considers the effect of the proposed development in relation to major accidents and disasters. Refer to Chapter 5 (Air quality) of this report for matters associated with the safety of the proposed Battery Energy Storage System (BESS). Matters relating to firewater from a potential thermal runaway event at the BESS and effects on groundwater are considered in Chapter 8 (Land, soil and groundwater).

POLICY BACKGROUND

NPS EN-1

4.12.2	Pollution control and impacts to human health.
4.12.16	Grounds for refusal based on pollution.

Local Policies

14.5.2. The LIRs provided by LCC [REP1-088] and NKDC [REP1-102] identified the following relevant local policies in the CLLP:

- Policy S21 - Flood Risk and Water Resources.
- Policy S53 - Design and Amenity.
- Policy S54 – Health and Wellbeing.

THE APPLICATION

14.5.3. The applicant states [APP-045] that by implementing recognised and approved safety legislation and regulation, no significant effects in relation to major accidents and disasters are anticipated during the construction, operation and decommissioning phases.

14.5.4. Although there is not a stand-alone chapter in the ES for major accidents and disasters, the applicant explains [APP-045] that the consideration of the risks associated with major accidents and disasters have been included in the following application documents:

- ES Chapter 5 - Approach to the EIA [APP-045].
- ES Chapter 15 - Water [APP-055].
- oCEMP [APP-0140].
- oOEMP [APP-0143].
- Outline Battery Safety Management Plan (oBSMP) [APP-0147].
- BESS Plume Assessment [APP-0152].

14.5.5. The applicant sets out its key fire safety provisions for the BESS, including measures to reduce fire risk and fire protection measures, in the outline Battery Safety Management Plan (oBSMP) [APP-0147].

14.5.6. The applicant states [AS-018] that there is no need for storage or use of hazardous substances at or above controlled quantities for the proposed development, and Hazardous Substance Consent is therefore not required. The applicant states that pollution prevention and control measures with management prescriptions are set out in the oCEMP [APP-0140], which is secured by R12 in the dDCO [APP-012].

ISSUES CONSIDERED DURING THE EXAMINATION

14.5.7. A large number of IPs [too many to list] raised concerns about the potential danger of a thermal runaway event at the BESS and harm to health that could be caused by air emissions. The discussion around these matters is contained in Chapter 5 (Air quality) of this report.

14.5.8. A large number of IPs, for example [RR-369] [REP1-115] also raised concern about the potential for contaminants from a BESS thermal runaway event and subsequent firewater affecting groundwater. The discussion around these matters is contained in Chapter 8 (Land, soil and groundwater) of this report.

EXA'S CONCLUSIONS ON MAJOR ACCIDENTS AND DISASTERS

14.5.9. As set out in the relevant chapters of this report, the ExA is content that should a thermal runaway event occur, BESS firewater would be suitably managed through the measures set out in the oCEMP [REP4-032] and the oDS at Appendix 1 of [REP1-050] and the revised plume assessment [REP3-077] suitably assesses the effects of a thermal runaway event and demonstrates that there are unlikely to be any adverse effects on health.

14.5.10. The ExA is content that no significant effects in relation to major accidents and disasters are likely to occur during the construction, operation and decommissioning phases.

14.5.11. The ExA concludes that major accident and disaster matters are neutral in the planning balance.

15. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

15.1. INTRODUCTION

15.1.1. This chapter sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the competent authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

15.1.2. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the proposed development may be granted only after having ascertained that it will not adversely affect the integrity of 'European site(s)' such that no reasonable scientific doubt remains (CJEU Case C-127/02, September 2004).

15.1.3. Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 2 of this report.

15.1.4. The ExA has been mindful throughout the examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the competent authority. The ExA have sought evidence from the applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB).

15.1.5. The applicant set out its assessment in the HRA No Significant Effects Report (NSER) [APP-0150]. The spatial relationship between the order limits of the proposed development and European sites is shown in figure 1 of the NSER.

15.1.6. The applicant did not identify any likely significant effects (LSE) on non-UK European sites in European Economic Area (EEA) states in its NSER or within its ES [APP-040 to APP-134]. Only UK European sites are addressed in this report. No such impacts were raised for discussion by any IPs during the examination.

15.1.7. NE's RR [RR-291] stated agreement with the applicant's conclusions with regard to the European sites assessed and their qualifying features. No other evidence or comment against this was submitted by any other party, and therefore the ExA decided that a report on the implications for European sites (RIES) compiling HRA-relevant information would not be required.

15.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS

15.2.1. Under Regulation 63 of the Habitats Regulations, the competent authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and

the activities, sites or plans and projects to be included for further consideration in the AA.

15.2.2. The European sites and qualifying features that were considered in the applicant's assessment of LSE are set out in (Tables 1 to 3 [APP-0150]). These comprise:

- The Wash Special Protection Area (SPA) (35km south-east of the proposed development) with the following qualifying features:
    - Bar-tailed godwit.
    - Bewick's swan.
    - Black-tailed godwit.
    - Common scoter.
    - Common tern.
    - Curlew.
    - Dark-bellied Brent goose.
    - Dunlin.
    - Gadwall.
    - Goldeneye.
    - Grey plover.
    - Knot.
    - Little tern.
    - Oystercatcher.
    - Pink-footed goose.
    - Pintail.
    - Redshank.
    - Sanderling.
    - Shelduck.
    - Turnstone.
    - Waterbird assemblage.
    - Wigeon.
- The Wash and Norfolk Coast Special Area of Conservation (SAC) (35km south-east) with the following qualifying features:
    - Sandbanks which are slightly covered by sea water all the time.
    - Mudflats and sandflats not covered by seawater at low tide.
    - Coastal lagoons.
    - Large shallow inlets and bays.
    - Reefs.
    - Salicornia and other annuals colonising mud and sand.
    - Atlantic salt meadows.
    - Mediterranean and thermos-Atlantic halophilous scrubs.
    - Otter.
    - Harbour (common) seal.
- The Wash Ramsar (35km south-east) with the following qualifying features:
    - Bar-tailed godwit – wintering.
    - Curlew – wintering.

- Dark-bellied brent goose – wintering.
- Dunlin – wintering.
- Estuary.
- Grey plover – wintering.
- Harbour (common) seal.
- Knot – wintering.
- Oystercatcher – wintering.
- Pink-footed goose – wintering.
- Pintail – wintering.
- Redshank – wintering.
- Sanderling – wintering.
- Shelduck – wintering.
- Turnstone – wintering.
- Waterbird assemblage – wintering.
- Wetland invertebrate assemblage.

15.2.3. The applicant sets out the methodology applied to determining what would constitute a 'significant effect' within its NSER.

15.2.4. The applicant's screening assessment concludes that given the significant distances between the proposed development and the European sites, the nature of the proposed development proposals, and the existing pressures to the relevant internationally designated sites, there would be no potential effect pathways to any European site and its qualifying features as a result of the proposed development, either alone or in combination with other plans or projects [APP-0150].

15.2.5. NE's relevant representation [RR-291] states that they concur with the NSER's scope of site search and conclusion that no significant effects are likely to occur to the internationally designated sites as a result of the proposed development, both alone and in combination, due to the absence of impact pathways.

15.3. EXA'S CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

15.3.1. The ExA is satisfied, on the basis of the information provided, that the correct European sites and impact-effect pathways have been assessed and is satisfied with the approach to the assessment of alone and in-combination likely significant effects.

15.3.2. Taking into account the reasoning set out above, the ExA considers that the proposed development is not likely to have a significant effect on the qualifying features of the Wash SPA, the Wash and Norfolk Coast SAC and the Wash Ramsar when considered alone, or in combination with other plans or projects. This was not disputed by IPs/ NE during the Examination.

16. CASE FOR MAKING A DEVELOPMENT CONSENT ORDER

16.1. INTRODUCTION

16.1.1. This chapter sets out the Examining Authority's (ExA) overall assessment of the planning merits of the proposed development.

16.1.2. The ExA is satisfied that the Environmental Statement (ES) and other information submitted by the applicant during the examination has provided an adequate assessment of the environmental effects of the proposed development and meets the requirements under the Environmental Impact Assessment (EIA) Regulations.

16.1.3. The ExA is content that the applicant has adequately defined the Rochdale Envelope and notes that the parameters within the consent envelope are set out in Appendix 3.1 of the ES [APP-074] and these correspond with the areas set out in the Works Plans [APP-007]. Specific design requirements for the detailed design stage including commitments relating to the size, type and colour of elements of the proposed development are also set out in the Design Commitments document [APP-0138]. Article 42 and Schedule 13 of the dDCO [REP5-004] secure these within the documents and plans to be certified.

16.1.4. The ExA is satisfied that the applicant's approach to the assessment of alternatives as described in the ES is comprehensive and complies with the EIA Regulations. The ExA is also satisfied that during examination the proposed development has been through sufficient scrutiny to ensure that the applicant studied reasonable alternatives before determining the chosen options for specific reasons and taking into account the effects of the options on the environment. In that regard, the ExA is also satisfied that the requirements of Section 4.3 of National Policy Statement (NPS) EN-1 are met.

16.1.5. The ExA is also satisfied with the applicant's methodology for assessing cumulative effects and their assessment of decommissioning. The ExA has taken full account of all environmental information in its consideration of this application.

16.1.6. The Overarching NPS for Energy (EN-1) and the NPS for Renewable Energy Infrastructure (EN-3) provide the primary basis for the Secretary of State for Energy Security and Net Zero (SoS) to make decisions on development consent applications for generating stations that are Nationally Significant Infrastructure Projects (NSIPs). NPS EN-5 (electricity networks) is also relevant since it applies to underground cables. The ExA's conclusions on the case for development consent are therefore reached within the context of the policies contained in these NPSs. In arriving at the conclusions set out in this chapter, the ExA have taken all other relevant law and policy into account.

16.2. HERITAGE BALANCE

16.2.1. This section weighs the harm to designated heritage assets against the public benefits of the proposed development before arriving at the ExA's overall conclusion on the weight to be attributed to cultural heritage effects in the planning balance.

16.2.2. NPS EN-1 paragraph 5.9.23 states that the SoS must comply with the requirements set out in the Infrastructure Planning (Decisions) Regulations 2010. Regulation 3 requires the SoS to have regard to desirability of: preserving a listed building or its setting or any features of special architectural or historic interest which it possesses; preserving or enhancing the character or appearance of a conservation area; and preserving an affected scheduled monument or its setting.

HARM TO DESIGNATED HERITAGE ASSETS

16.2.3. In Chapter 7 of this report the ExA confirmed that it agrees with the applicant that harm would occur to two scheduled monuments, one scheduled monument/ grade I listed building, three conservation areas, one grade II* listed building, and 19 grade II listed buildings due to effects on the settings of these assets as set out in the applicant's Heritage Harm Statement [REP4-023].

16.2.4. The harm to all the assets identified would be at the lower end of less than substantial. The ExA afford great weight to each asset's conservation, in accordance with NPS EN-1 paragraph 5.9.27.

16.2.5. The ExA is satisfied that the proposed development would not result in substantial harm to any designated or non-designated heritage asset. The ExA also note that any harm to the settings of assets would be reversed once the proposed development was removed/ decommissioned.

PUBLIC BENEFITS

16.2.6. NPS EN-1 paragraph 5.9.32 states that where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of a proposal, including, where appropriate securing its optimum viable use. NPS EN-3 paragraph 2.3.8 states that in considering this, the SoS should take into account the positive role that large-scale renewable projects play in the mitigation of climate change, the delivery of energy security and the urgency of meeting the net zero target.

16.2.7. The proposed development would make a meaningful contribution in meeting the urgent need for low carbon electricity infrastructure as well as towards the Government's energy security and net zero ambitions. The ExA affords very great/ substantial weight to these benefits. There would also be moderate biodiversity benefits and other more minor benefits, including socio-economic benefits associated with employment, GVA/ workforce spending and the provision of new public rights of way and permissive paths. These are all public, as opposed to private, benefits.

HERITAGE BALANCE AND THE EXA'S OVERALL CONCLUSION ON CULTURAL HERITAGE MATTERS

16.2.8. The ExA concludes that the proposed development would accord with NPS EN-1 and NPS EN-3. Whilst the ExA attributes 'great weight' to the conservation of the identified designated heritage assets, having applied the heritage balance, the ExA considers that the overall level of harm would be less than substantial and would be outweighed by the wider public benefits.

16.2.9. Consequently, the ExA considers overall that cultural heritage should be afforded a moderate amount of negative weight in the planning balance against the making of the order.

16.3. MAIN PLANNING ISSUES

16.3.1. The ExA's findings in relation to the effects of the proposed development and its compliance against the relevant policy and legislation can be found in the relevant sections of Chapters 4 to 14 and are summarised in Table 2 below. In reaching its findings, the ExA has given full consideration to the Local Impact Reports (LIRs) submitted by Lincolnshire County Council [REP1-088] and North Kesteven District Council [REP1-102]. The planning matters and potential effects raised are considered in the relevant sections of this report.

Table 2: Summary of Findings on Main Planning Issues

Issue	Finding	Weighting	Chapter
Need Case for the Development (Including Climate Change)	Positive	Very Great/ Substantial	4
Biodiversity	Positive	Moderate	6
Landscape and Visual	Negative	Great	9
Cultural Heritage	Negative	Moderate	7
Land, Soil and Groundwater	Negative	Little	8
Air Quality	Neutral	-	5
Noise and Vibration	Neutral	-	10
Population	Neutral	-	11
Traffic and Transport, inc PROW	Neutral	-	12
Water Environment	Neutral	-	13
Other Planning Matters (Waste, Minerals, Aviation, MA&D)	Neutral	-	14

THE EXA'S RECOMMENDED CHANGES TO THE DEVELOPMENT CONSENT ORDER

16.3.2. As set out in the relevant chapters of this report, the ExA has recommended the inclusion of requirements in its recommended Development Consent

Order (rDCO). If the SoS disagrees with the inclusion of the requirements below, the ExA would alter the weight attributed to these matters as follows:

- If the SoS does not agree that a requirement should be imposed restricting the commencement of the proposed development until the proposed National Grid Navenby Substation (NGNS) benefits from planning permission, the ExA considers that the overall need argument should be attributed great positive weight in the planning balance.
- If the SoS disagrees with the ExA that a requirement should be imposed to restrict development in areas of Flood Zone 3b, the ExA considers that the water environment should be attributed a little negative weight in the planning balance.

HABITATS REGULATIONS ASSESSMENT

16.3.3. The applicant provided a Habitats Regulations Assessment (HRA) No Significant Effects Report [APP-0150] for the proposed development. Whilst the SoS is the competent authority under the Habitats Regulations and will make the definitive assessment, the ExA is satisfied on the basis of the information provided that Adverse Effects on Integrity from the proposed development alone or in combination with other plans and projects can be excluded for all European sites within the UK National Sites Network.

16.4. THE OVERALL PLANNING BALANCE

16.4.1. This section weighs the benefits and disbenefits of the proposed development to reach a recommendation as to whether or not the case is made for granting development consent.

LEGAL FRAMEWORK AND POLICY BACKGROUND

16.4.2. The ExA has been mindful of the legal framework within which the SoS must decide this application. S104(2) and s104(3) of The Planning Act 2008 (PA2008) require the SoS to have regard to and decide the application in accordance with the relevant NPSs, unless a relevant consideration arising from s104(4) to (8) applies.

16.4.3. NPS EN-1 sets out that that, given the level and urgency of need for the delivery of major energy infrastructure covered by the energy NPSs, including NPS EN-3 and NPS EN-5, the SoS will start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused and subject to the provisions of the PA2008.

16.4.4. The ExA considers that the proposed development meets the need as established in the NPSs and satisfies the tests of s104(2) and s104(3) of the PA2008 and accordingly should be determined as such.

16.4.5. In accordance with its duties under PA2008, the ExA has had regard to the relevant NPSs, LIRs, any matters prescribed in relation to the development, and any other matters which are both important and relevant to the decision.

The ExA has had regard to human rights and Public Sector Equality Duty. The ExA has taken all other relevant law and policy into account.

16.4.6. The ExA has considered whether the determination of this application in accordance with the NPSs would lead to the UK being in breach of any of its international obligations, be in breach of any statutory duty, be unlawful, or be contrary to regulations about how decisions are to be taken. The ExA is satisfied that in all respects, this would not be the case.

16.4.7. The ExA is also obliged to consider whether the adverse impacts of the proposed development would outweigh its benefits. Paragraph 4.1.6 of NPS EN-1 states that when weighing the adverse impacts against its benefits, the SoS should take into account environmental, social and economic benefits and adverse impacts at national, regional and local levels.

16.4.8. Paragraph 4.1.7 of NPS EN-1 states that where the NPSs require an applicant to mitigate a particular impact as far as possible, but there would still be residual adverse effects after the implementation of such mitigation measures, those residual effects should be weighed against the benefits of the proposed development. It goes on to state that, for projects which qualify as Critical National Priority (CNP) Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases. This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero.

THE PLANNING BALANCE

16.4.9. In assessing nationally significant energy infrastructure, the starting point is the overarching need case which should be given substantial weight as set out in paragraphs 3.2.6 to 3.2.8 of NPS EN-1. As such, the ExA has attributed very great/ substantial positive weight to the need case and associated climate change benefits for the proposed development in the planning balance. The ExA has also found that moderate positive weight should be given to the biodiversity benefits that would arise.

16.4.10. The ExA is satisfied that the applicant's assessment has followed the mitigation hierarchy. However, following the application of the mitigation hierarchy, the ExA has identified that the proposed development would result in adverse residual effects and have attributed great negative weight to landscape and visual effects, moderate negative weight to cultural heritage effects and a little negative weight to land, soil and groundwater effects against the making of the order as a result.

16.4.11. The ExA finds that the adverse visual effects on sensitive receptors would be outweighed by the benefits of the project. The ExA does not consider that any adverse landscape impact would be so damaging that it is not offset by the benefits (including need) of the project. The ExA is therefore content in relation to paragraphs 5.10.14 and 5.10.35 of NPS EN-1. As set out above in the heritage balance, the ExA consider that the low level of less than

substantial harm to designated heritage assets would be outweighed by the public benefits of the proposal. The ExA is satisfied that paragraphs 5.9.28, 5.9.32 and 5.9.36 of NPS EN-1 and paragraph 2.3.8 of NPS EN-3 are complied with.

16.4.12. Taking the above into account, the ExA concludes that the harms, even when taken cumulatively, would not be capable of outweighing the very great/ substantial benefits arising from the need for the proposed development as set out in NPS EN-1, EN-3 and EN-5.

16.4.13. The ExA would still reach the same conclusion if the SoS does not agree with the ExA that requirements should be imposed to restrict the commencement of the proposed development until the proposed NGNS benefits from planning permission and/ or to restrict development in areas of Flood Zone 3b. However, the ExA considers these should still be imposed to ensure that adverse effects are mitigated and minimised as far as possible.

16.4.14. On the basis of all of the above considerations, the ExA concludes that there are no adverse impacts of sufficient weight, either on their own or collectively, that would mean that the DCO should not be made. The ExA therefore consider the case for development consent to be granted has been made.

16.4.15. Compulsory acquisition matters are considered in the following chapter of this report and matters relating to the drafting of the DCO are considered in Chapter 18 of this report.

CRITICAL NATIONAL PRIORITY CONSIDERATIONS

16.4.16. The ExA concludes that the proposed development constitutes nationally significant low carbon infrastructure, which the Government has identified would qualify as CNP infrastructure. The CNP policy does not create an additional need in this regard, it should be applied following the normal consideration of the need case, the impacts of the project, and the application of the mitigation hierarchy as set out in paragraph 4.2.7 of NPS EN-1.

16.4.17. The ExA is satisfied that the applicant's assessment demonstrates that the requirements set out in paragraphs 4.2.10 to 4.2.13 of NPS EN-1 have been met. Therefore, the presumption of consent set out in paragraph 4.2.15 applies.

16.4.18. Paragraph 4.2.15 of NPS EN-1 states that where residual non-HRA impacts remain after the mitigation hierarchy has been applied, those residual impacts are unlikely to outweigh the urgent need for this type of infrastructure. Therefore, in all but the most exceptional circumstances, it is unlikely that consent will be refused based on these residual impacts. The ExA does not consider that the residual impacts identified would present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats, or the achievement of net zero.

16.4.19. The ExA has considered CNP policy in accordance with NPS EN-1 and find that it does not change its conclusions.

17. COMPULSORY ACQUISITION AND RELATED MATTERS

17.1. INTRODUCTION

17.1.1. The proposed development seeks powers for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights over land. This includes the power to acquire land outright, the power to acquire rights over land, the power to extinguish rights over land, the power to occupy land temporarily and the power to impose restrictive covenants.

17.1.2. This chapter discusses whether the evidence before the examination justifies the granting of those powers, having regard to all relevant legislation and guidance, before providing our conclusions and recommendations. Statutory undertakers (SU) land and detriments to the undertakings of SU are also considered in this chapter.

17.1.3. Land over which CA or TP powers are sought is referred to in this chapter as the order land.

17.2. LEGISLATIVE REQUIREMENTS

17.2.1. CA powers can only be granted if the conditions set out in section 122 (s122) and s123 of the Planning Act 2008 (PA2008) are met.

17.2.2. Section 122(2) states that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. Planning Act 2008: guidance related to procedures for the compulsory acquisition of land (CA guidance) states that in respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.

17.2.3. Section 122(3) states that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right.

17.2.4. Section 123 requires that one of three procedural conditions in subsections (2) to (4) must be met, namely:

- (2) the application included a request for CA of the land to be authorised;
- (3) all persons with an interest in the land consent to the inclusion of the provision; and
- (4) the prescribed procedure is followed in relation to the land.

17.2.5. Section 127 and s138 of the PA2008 are relevant to SU land, rights, and apparatus. Section 127 has provisions in relation to CA of land or rights over SU's land. If a SU makes a representation that is not withdrawn before the end of the examination, then CA may only be authorised if there is no serious detriment to the carrying out of the undertaking. Section 138 has provisions

for the extinguishment of SUs' rights and removal of apparatus if the SoS is satisfied that it is necessary for the proposed development.

17.2.6. Several general considerations also must be addressed, either as a result of following the applicable guidance or in accordance with legal duties on decision-makers:

- All reasonable alternatives to CA must have been explored.
- The applicant must have a clear idea of how it intends to use the land subject to CA powers.
- The applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers.
- The decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

17.2.7. No powers are requested for national trust land, commons, open space or allotments, which are covered by s130, s131 and s132 of PA2008, and therefore those are not engaged, and we give them no more consideration.

17.2.8. Section 135 (1) of the PA2008 requires that an order granting development consent may include provision authorising the CA of an interest in crown land only if:

- it is an interest which is for the time being held otherwise than by or on behalf of the crown, and
- the appropriate crown authority consents to the acquisition.

17.2.9. Section 135 (2) requires that an order granting development consent may include any other provision applying in relation to crown land, or rights benefiting the crown, only if the appropriate crown authority consents to the inclusion of the provision.

17.2.10. TP powers are also capable of being within the scope of a DCO by virtue of Paragraph 2, Part 1 of Schedule 5 to the PA2008. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the associated CA guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole: only capable of proceeding if the primary development is justified.

17.2.11. We take all relevant legislation and guidance into account in our considerations in this chapter.

17.3. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS

17.3.1. The draft Development Consent Order (dDCO) supporting the application [APP-012], as well as all subsequent revisions [REP1-006] [REP3-004] [REP4-004] [REP5-004] submitted by the applicant include provisions intended to grant the applicant powers of CA and TP of land and rights over land. In addition, the application was supported by an Explanatory Memorandum (EM) [APP-013], a Book of Reference (BoR) [AS-007], a Statement of Reasons (SoR) [APP-015], a Funding Statement [APP-016], Land Plans [AS-004] and Crown Land Plans [APP-011].

17.3.2. During the examination, the applicant updated several of these documents and at the close of the examination the most up-to-date versions are dDCO [REP5-004], EM [REP5-006], BoR [REP4-008] and Funding Statement [REP4-006].

17.3.3. Collectively, these set out the land and rights sought by the applicant, the reasons for their requirement and compensation provisions. These documents form the basis of the ExA's considerations in this chapter.

COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS SOUGHT IN THE DCO

17.3.4. The powers sought within the application of the dDCO [REP5-004] are:

a. Articles 22 and 24 set out the main powers authorising CA.
b. Article 24 and Schedule 8 limit CA powers of specified land to the acquisition of such new rights and imposition of restrictive covenants for specified purposes.
c. Article 25 provides for the extinguishment of private rights and restrictive covenants over land subject to CA and the suspension of private rights over land subject to TP.
d. Article 27 allows the acquisition of subsoil of land authorised for CA.
e. Article 28 provides the power to override easements and other rights.
f. Article 30 allows the applicant to use land above and below streets in the order land without having to acquire any part of the street or any easement or right in it.
g. Article 31 authorises powers of TP which would allow specified land, including that identified in Schedule 11, to be occupied temporarily and would allow the applicant to remove any buildings or vegetation, construct temporary works and buildings and specified permanent works, and carry out mitigation works.
h. Article 32 would allow the TP of any land within the order limits if reasonably required for the purpose of maintenance at any time during the maintenance period and for so long as may be reasonably necessary.
i. Article 33 allows rights over order land belonging to SUs to be acquired or for new rights over it to be created.
j. Article 34 deals with apparatus and rights of statutory undertakers in closed or restricted streets.

k. Article 35 deals with the recovery of costs of new connections to utilities or communications apparatus from the applicant.
l. Article 47 provides that the undertaker must not exercise the powers conferred by Articles 22, 24, 25, and 30-33 until guarantees or alternative forms of security are approved by the Secretary of State (SoS) in respect of the undertaker's liabilities to pay compensation.
m. Article 48 incorporates the mineral code from the Acquisition of Land Act 1981.
n. Article 49 relates to crown rights.
o. Other Articles that may interfere with property rights and private interests include in relation to streets, public rights of way, protective works to buildings, and authority to survey and investigate land.

17.3.5. Article 6 of the dDCO [REP5-004] provides that the Neighbourhood Planning Act 2017 does not apply insofar as it relates to TP of land in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development.

17.3.6. The final version of the dDCO was submitted at Deadline (D) 5 [REP5-004] which is the applicant's preferred version (the preferred DCO).

17.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

17.4.1. The purposes for which the CA and TP powers are sought are set out in the dDCO [REP5-004], SoR [APP-015] and BoR [REP4-008]. In summary, the applicant has set out that the powers sought are required to secure the land and interests required to construct, operate, maintain, and decommission the proposed development. These are the work numbers in Schedule 1 of the dDCO [REP5-004].

17.4.2. The applicant also identifies [APP-015] that:

- It is having discussions with landowners with the intention of reaching voluntary agreements for the land rights. However, on a precautionary basis, CA powers are sought to ensure that the proposed development could still be delivered should voluntary agreements not be agreed.
- It undertook a thorough land referencing exercise, but the possibility of unknown interests emerging in the land cannot be fully excluded and it needs to be able to acquire such interests where they emerge.
- TP powers are sought to temporarily occupy land required during the construction stage of the proposed development over which rights would not be required once the construction stage is completed.

17.5. EXAMINATION OF THE COMPULSORY ACQUISITION AND TEMPORARY POSSESSION CASE

17.5.1. The examination considered all written material in respect of CA and TP and the ExA asked written questions of the applicant through ExQ1 [PD-007] and ExQ2 [PD-010]. The issues were also discussed at Compulsory Acquisition Hearing (CAH) 1 [EV8-002] [EV8-003].

THE APPLICANT'S CASE

17.5.2. The applicant's case for CA and TP is set out mainly in sections 5, 6 and 12 of the SoR [APP-015]. The applicant considers the CA of the order land or rights over the order land (including restrictions), together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required for the purposes of, to facilitate, or are incidental to, the proposed development and are proportionate and no more than is reasonably necessary.

17.5.3. The applicant considers [APP-015] there is a compelling case in the public interest for the land or rights over the land to be compulsorily acquired given the meaningful and timely contribution offered by the proposed development to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life.

17.5.4. The applicant is of the view that without the powers sought to secure the land and interests required, it would not be able to construct, operate, maintain, and decommission the proposed development.

ALTERNATIVES TO COMPULSORY ACQUISITION

17.5.5. The CA guidance indicates that the applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA have been explored.

17.5.6. The applicant states [APP-015] that it has considered and explored all reasonable alternatives to CA, including negotiating voluntary agreements, alternatives sites and modifications to the proposed development. The applicant refers to Chapter 4: Reasonable Alternatives Considered of the ES [APP-044], the Site Selection Report in Appendix 1 to the Planning Statement [AS-018] and the Statement of Need [APP-0135]. It considers that these reports demonstrate that no alternative technologies or sites studied by the applicant could deliver the project objectives. The ExA considers alternatives in Chapter 4 of this report.

17.5.7. The applicant also set out that the land at Blankney Estate, which is the subject of the proposed development, and which makes up the majority of the land required, performed favourably across the site selection criteria in comparison to the other sites considered. Further, given the progression of discussions and the ability of the applicant to voluntarily acquire the land from Blankney Estates, the other landholdings were no longer considered as reasonable alternatives.

17.5.8. It is also noted by the applicant that the site selected for the proposed development minimised the extent of CA powers needed given the voluntary agreement, and no other sites or areas considered would have avoided the use of such powers to a greater degree. Further, none of the alternatives or modifications considered would have obviated the need for CA powers and TP.

17.5.9. The applicant therefore considers that all reasonable alternatives have been considered prior to the making of the application and such consideration has included reasonable factors at relevant stages, such as consultee comments, technical feasibility, economic factors and the minimisation of environmental and visual impacts and land take.

AVAILABILITY AND ADEQUACY OF FUNDS

17.5.10. The applicant's Funding Statement [REP4-006] indicates that the applicant, Springwell Energy Farm Limited (Ltd), has the ability, through its majority shareholder EDF Renewables UK and other shareholder Luminous Energy Group Ltd, to procure the financial resources required for the proposed development, including the cost of acquiring any land and rights and the payment of compensation, as applicable.

17.5.11. The adequacy of funding for CA was not raised by any affected person (AP) during the course of the examination. Costs associated with decommissioning are considered in Chapter 4 of this report.

17.5.12. Article 47 of the dDCO [REP5-004] secures a guarantee or alternative form of security for compensation that may be payable pursuant to the DCO before the provisions for CA can be exercised. This provides a clear mechanism whereby the necessary funding for CA can be guaranteed.

EXA'S CONCLUSION ON THE APPLICANT'S CASE FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION, ALTERNATIVES AND FUNDING.

17.5.13. The ExA agrees with the applicant's conclusions set out above and subject to our further consideration of plots affected by outstanding objections and representations below, we consider the tests set out in s122(2) and s122(3) of the PA2008 to be met.

17.6. MATTERS RAISED IN THE EXAMINATION/ OBJECTIONS TO COMPULSORY ACQUISITION AND TEMPORARY POSSESSION FROM AFFECTED PERSONS

17.6.1. This section considers matters raised in relation to CA and TP which were either unresolved at the close of the examination or where the parties hadn't reached a voluntary agreement. Whilst no AP requested a CAH, the ExA took the procedural decision to hold CAH1 [EV8-002] [EV8-003] and notified all APs of the date and venue.

BLANKNEY ESTATES LTD

17.6.2. The vast majority of the application site is currently owned by Blankney Estates and it is evident [REP5-008] that the parties have been in regular discussions for some time. The AP did not submit any representations during the examination and did not attend CAH1.

17.6.3. The applicant secured an option agreement with the AP over this land in June 2022. However, the applicant has advised [REP5-008] that the parties are negotiating a variation to the signed option agreement, based on changes required to align with the submitted application, which has evolved following discussions with Blankney Estates and information from statutory consultation and surveys since signing the original option agreement. At the end of the examination the variation agreement had not been signed. The SoS may wish to request an update on these negotiations.

17.6.4. Notwithstanding this, the applicant considers that CA and TP powers are required in the event that contracts are not adhered to or are otherwise set aside. The ExA agrees that it would be in the public interest for the proposed development to proceed in these circumstances.

17.6.5. The ExA notes that the applicant will continue to progress negotiations to a satisfactory conclusion with the AP on the variation agreement, but in the event they do not, the ExA considers that the applicant has satisfactorily demonstrated the need for the rights and powers over the APs land to undertake the works. We are therefore satisfied that it meets the tests in s122(3) of the PA2008.

CHARLES AND GEORGINA HAYWARD

17.6.6. The applicant is seeking permanent rights over plot 11/1 as shown on the Land Plans [AS-004]. This plot represents part of the cable route to the planned grid connection at the proposed National Grid Navenby Substation (NGNS). The APs raised some concerns in a relevant representation [RR-058] about a lack of engagement from the applicant. The agent of the APs also attended CAH1 [EV8-002] [EV8-003].

17.6.7. The applicant has set out [REP5-008] that there was contact with the APs in October 2023, December 2023, January 2024, February 2024, March 2024 and July 2024 either through meetings or written correspondence. Since then, the applicant notes that it has had continued engagement with the APs agent and after CAH1 the applicant had a further meeting in an attempt to seek voluntary agreement prior to the end of examination. However, at the end of the examination this had not been agreed. The applicant has advised that it will continue to engage with the APs to try and enable a voluntary agreement to be secured. The SoS may wish to request an update on discussions.

17.6.8. At CAH1, the APs raised concern that rights were being sought over the whole plot when in all likelihood only a narrow strip of land to install the cable would be required. The applicant responded [EV8-002] [EV8-003] [REP3-076] by setting out that the powers over the entire plot are being sought because National Grid is yet to submit its planning application for the proposed NGNS and the applicant was not able to confirm exactly where it can route the cable, and so requires flexibility over that plot until that time. The applicant noted that the rights would be constrained to a particular area once the location of the NGNS and which bay it would need to connect was

known and considered that the level of flexibility (i.e. seeking rights over a broader area) was necessary and a common approach.

17.6.9. Following CAH1, the applicant stated [REP3-053] that it had had confirmation from National Grid on the final design of the proposed NGNS and the bay location for connection. The ExA asked the applicant through written question ExQ2.6.3 [PD-010] whether on this basis, there was still a need for the extent of the cable corridors currently included in the order limits, including the whole of plot 11/1. The applicant replied [REP4-049] by advising that it considered that the whole of plot 11/1 must remain within the order limits to secure the ability of the proposed development to connect to the NGNS once it is constructed and its design approved.

17.6.10. The applicant went on to explain that whilst National Grid had confirmed the intended bay location for connection, the current design is based on preliminary survey information only and further detailed surveys are expected to be completed by late 2025, with National Grid aiming to submit its planning application to North Kesteven District Council in early 2026. The applicant added that until this process is complete, there remains the potential for design refinements or amendments as new information becomes available. Retaining plot 11/1 within the order limits, therefore, provides the necessary flexibility to accommodate any such changes and it would ensure that the proposed development could deliver a secure and feasible grid connection.

17.6.11. The ExA acknowledges the frustration of the APs about the uncertainty around the cable route. However, the ExA accepts the applicant's position that there could still be changes to the design of the proposed NGNS that require flexibility. On this basis, we consider that seeking rights over the entirety of plot 11/1 to be reasonably required and proportionate.

17.6.12. The ExA is of the view that the applicant has made reasonable efforts to negotiate with the APs. The ExA notes the applicant's intention to continue to progress negotiations to a satisfactory conclusion, but in the event they do not, the ExA considers that the applicant has satisfactorily demonstrated the need for the rights and powers over the APs' land to undertake the works. We are therefore satisfied that it meets the tests in s122(3) the PA2008.

IAN AND PAMELA LEATHLEY

17.6.13. The applicant is seeking freehold rights for plots 10/1, 10/6 and 15/4 and permanent rights over plots 10/2, 15/2 and 15/8 as shown on the Land Plans [AS-004]. The APs did not make any representations to the examination and did not attend CAH1.

17.6.14. The applicant issued detailed heads of terms in August 2023 to secure the rights required to construct and operate the proposed development. Numerous meetings with the APs to discuss the heads of terms took place in October 2023, December 2023, January 2024 and March 2024. Heads of terms were agreed on 18 July 2024. The legal documents have been agreed and are pending signature for formal execution of the required

documentation [REP5-008]. However, this was not completed by the end of the examination. The SoS may wish to request an update on discussions.

17.6.15. The ExA is of the view that the applicant has made reasonable efforts to negotiate with the APs. The ExA assumes that the applicant will continue to progress negotiations to a satisfactory conclusion with the AP, but in the event they do not, the ExA considers that the applicant has satisfactorily demonstrated the need for the rights and powers over the APs land to undertake the works. We are therefore satisfied that it meets the tests in s122(3) of the PA2008.

UNKNOWN INTERESTS AND RIGHTS

17.6.16. The applicant has identified all category 1 parties. However, there are still a number of plots identified in the BoR [REP4-008] for which some interests and/or rights are unknown, including those in category 2. The ExA asked for updates on efforts to establish these at CAH1 [EV8-002] [EV8-003] and through written question ExQ2.6.2 [PD-010]. The applicant set out [REP4-049] that continued efforts have been made to identify the parties with interests in plots listed as unknown and due diligence is ongoing, including reviewing land registry records, checking for updates to land registry records, making further enquiries with known adjoining owners, and consulting other available records.

17.6.17. The applicant stated it remains committed to exhausting all reasonable avenues to establish the identities of the rights holders. The ExA is content that the applicant has sought by all reasonable means to identify unknown parties. The SoS may wish to ask the applicant for an update on these efforts.

17.7. STATUTORY UNDERTAKERS

17.7.1. A number of SUs would be affected by the proposed development. These are:

- Exolum Pipeline System Ltd.
- National Grid Electricity Distribution plc (NGED).
- National Grid Electricity Transmission plc (NGET).
- Cadent Gas Ltd.
- Anglian Water Services Ltd.
- Openreach Ltd.
- Network Rail Infrastructure Ltd.

17.7.2. At the end of the examination, agreement on PPs had been reached with: Exolum Pipeline System Ltd [REP5-018], NGED, Cadent Gas Ltd [REP5-016], Anglian Water Services Ltd [REP5-015], Network Rail Infrastructure Ltd [REP5-025] and the agreed form of these are included in Schedule 15 of the dDCO [REP5-004]. Further, the applicant has advised that confidential side agreements are in the process of being engrossed and signed with Cadent Gas Ltd, NGED and Network Rail Infrastructure Ltd [REP5-030].

17.7.3. The ExA is content that the rights requested by the applicant can be acquired without serious detriment to the continued operation of these SUs in line with s127 of the PA2008. The ExA therefore sees no reason not to permit the permanent and/ or temporary rights and powers requested over land that these SUs have an interest in, and we consider that their position and assets have been protected.

17.7.4. Only an objection from NGET remained. Although, it should also be recognised that whilst not submitting any representations to the examination, Openreach Ltd did not agree PPs with the applicant by the close of the examination.

NATIONAL GRID ELECTRICITY TRANSMISSION PLC

17.7.5. NGET objected [RR-289] to the proposed development by stating that no rights should be granted or secured through CA powers that would restrict its ability to build the proposed NGNS. It noted that the inclusion of the entirety of the field in which the proposed NGNS would be located contradicts previous discussions with the applicant, where NGET's position is that only the cable route should be in the order limits.

17.7.6. The applicant advised [REP1-071] that it needs to include the area of the proposed NGNS within the order limits to ensure it has the necessary authorisation and powers to connect into the NGNS.

17.7.7. In response to the ExA's written question ExQ2.6.4 [PD-010] NGET set out [REP4-058] that it would only have concerns over the extent of land over which the applicant seeks rights, if PPs cannot be agreed between the parties that will adequately protect NGET's interests and ensure compliance with relevant safety standards.

17.7.8. At the end of the examination, the Statement of Common Ground (SoCG) between the parties [REP5-017] confirmed that agreement had not been fully reached on PPs. The parties' cases on PPs are considered in Chapter 18 of this report.

17.7.9. The applicant continues to negotiate with the NGET [REP5-017]. The SoS may wish to request an update on these discussions. However, if agreement cannot be reached and based on our findings in Chapter 18 of this report and the provisions set out in the rDCO, we are content that the rights requested can be acquired without serious detriment to the continued operation of NGETs undertakings and delivery of the proposed NGNS in line with s127 of the PA2008. The ExA therefore sees no reason not to permit the rights and powers requested over land that NGET has an interest in.

OPENREACH LTD

17.7.10. Openreach Ltd did not provide any representations to the examination. However, the applicant advised [REP5-008] that the parties were still engaged in negotiating PPs and will continue to seek to reach agreement. The SoS may wish to request an update on these discussions.

17.7.11. The applicant also set out that if agreement is not reached then its position is that Openreach Ltd would benefit from the protection of the PPs provided at Part 11 of Schedule 15 of the dDCO [REP5-004] and its assets would be appropriately protected by those provisions.

17.7.12. The ExA see no reason not to permit the proposed permanent and temporary rights sought to work on the numerous plots of land that Openreach Ltd has an interest in. The ExA considers that Openreach Ltd's position and assets would be suitably protected by Part 11 of Schedule 15 of the rDCO, so that the rights requested by the applicant can be acquired without serious detriment to the continued operation of Openreach Ltd in line with s127 of the PA2008.

17.8. CROWN LAND

17.8.1. The order land includes land in which the Secretary of State for Defence (SoSD) has an interest and therefore constitutes crown land as defined in section 227 of the PA2008. This relates to plots 6/3, 7/14 and 7/17, as shown on the Crown Land Plans [APP-011].

17.8.2. On 17 July 2025 the SoSD consented [REP5-008], in accordance with section 135(1)(b) of the PA2008, to the CA of any interests in the crown land comprising the property and falling within section 135(1)(a) of the PA2008.

17.8.3. Further, in accordance with section 135(2) of the PA2008 the SoSD consented to Article 49 of the dDCO and noted that it must be consulted on any further amendments to the inclusion of provisions within the dDCO which would apply to the plots listed.

17.9. HUMAN RIGHTS ACT 1998 AND EQUALITIES ACT 2010 CONSIDERATIONS

17.9.1. The Human Rights Act 1998 incorporates the European Convention on Human Rights ("the Convention") into UK law. The convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual. Schedule 1 of the Act sets out the Articles.

17.9.2. The proposal would not require the acquisition of residential properties and, as such, the ExA does not believe that Article 8 would be engaged. Article 6 (right to a fair trial) and Article 1 of the First Protocol (protection of property) are engaged.

17.9.3. Article 6 entitles those affected by the powers sought in the dDCO to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision-making process. The ExA considers that suitable consultation took place during the pre-application process and APs had opportunities to make representations. There were also opportunities to make representations during the course of the examination. At CAH1 [EV8-002] [EV8-003], all APs who wished to be heard had an opportunity to be heard fully, fairly and in public. We also note that, should the order be made,

there are further opportunities for APs to challenge the order in the High Court. The ExA considers that the consultation undertaken has been sufficient to meet the obligations set out in Article 6.

17.9.4. Article 1 provides the right of everyone to the peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles. The applicant acknowledges in the SoR [APP-015] that the proposed development has the potential to infringe the rights of APs and acknowledges the need to strike a balance between the rights of the individual and the interests of the public. The ExA notes that the applicant has sought to minimise the amount of land affected and has included in the dDCO suitable provisions for the payment of compensation.

17.9.5. The Equalities Act 2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had regard to this duty throughout the examination and in our consideration of the issues raised in this recommendation report.

17.9.6. As set out above, the ExA has found that there is a compelling case in the public interest for all of the land identified to be acquired compulsorily. Moreover, we consider that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest. As such, the ExA concludes that the CA and TP powers sought are compatible with the Human Rights Act 1998 and Equalities Act 2010.

17.10. EXA'S CONCLUSIONS ON COMPULSORY ACQUISITION AND RELATED MATTERS

17.10.1. The ExA has considered all of the material submitted and presented during the examination relating to CA and TP of land and rights within the order limits and have reached the following conclusions:

- The application site was selected through an appropriate site selection process.
- All reasonable alternatives to CA have been explored by the applicant.
- The applicant would have the necessary funding and the rDCO provides a mechanism through which funding can be guaranteed.
- There is a clear need for all the land included in the BoR [REP4-008] to be subject to CA or TP.
- There is a clear need to secure the land and rights required to construct, operate and maintain the proposed development within a reasonable timeframe.
- The proposed development would provide significant public benefits to weigh in the balance.
- The private loss to those affected has been mitigated through the selection of the land; the minimisation of the extent of the rights and interests proposed to be acquired and the inclusion, where relevant, of PPs in favour of those affected.

- That in all cases relating to individual objections and issues that CA and TP are justified to enable implementation of the proposed development.
- The powers sought satisfy s122 and s123 of the PA2008 as well as the CA guidance.
- The powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA guidance.

17.10.2. Considering all of the above, the ExA considers there is a compelling case in the public interest for the CA and TP powers that are being requested by the applicant.

18. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

18.1. INTRODUCTION

18.1.1. A draft Development Consent Order (dDCO) [APP-012] and Explanatory Memorandum (EM) [APP-013] were submitted by the applicant in support of the application for development consent. The EM explains the purpose and effect of the dDCO and each of its articles and schedules.

18.1.2. The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, (the model provisions) is repealed. However, the applicant's dDCO does draw on the model provisions as well as precedent set by made DCOs for other nationally significant infrastructure projects under the Planning Act 2008 (PA2008). The dDCO is in the form of a statutory instrument as required by section 117(4) of the PA2008.

18.1.3. Guidance on the preparation of a DCO includes Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects (30 April 2024), and Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders (1 July 2018).

18.1.4. National Policy Statement (NPS) EN-1, at paragraph 4.1.16 sets out that the Secretary of State (SoS) should only impose requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.

18.1.5. This chapter starts by providing an overview of the dDCO and then the changes made to it during the examination process between the original application dDCO and the final dDCO submitted by the applicant at Deadline (D) 5 [REP5-004]. A final EM was also submitted at D5 [REP5-006] which incorporated all changes.

18.1.6. This chapter then considers matters where there were outstanding objections at the end of the examination and changes which should be made to the dDCO in order to arrive at the Examining Authority's (ExA's) recommended DCO (rDCO) in Appendix C to this report, should the SoS be minded to make the DCO.

18.2. THE ORDER AS APPLIED FOR

18.2.1. The first version of the dDCO [APP-012] included a number of provisions to enable the construction, operation and maintenance and decommissioning of the proposed development. The articles are in six parts, which are briefly described here and in more detail in the final EM [REP5-006]. Our rDCO (Appendix C) has the same structure as the dDCO:

- Part 1 (Preliminary): Article 1 sets out what the order may be cited as and when it comes into force. Article 2 sets out the meaning of the defined terms used in the order.

- Part 2 (Principal Powers): Articles 3 to 5 provide development consent for the proposed development, and allow it to be constructed, operated and maintained by the undertaker. Articles 6 and 7 relate to the application and modification of certain legislative provisions and defence to proceedings in respect of statutory nuisance respectively.
- Part 3 (Streets): Articles 8 to 17 provide the undertaker with a suite of powers in relation to street works. The powers include the ability for the undertaker to be able to carry out works to and within streets; to alter the layout of streets; to construct and maintain new or altered means of access; to close temporarily public rights of way; to extinguish a claimed public right of way; to create or improve public rights of way; to enter into agreements with street authorities and provisions relating to traffic regulations.
- Part 4 (Supplemental Powers): Articles 18 to 21 set out four supplemental powers relating to the discharge of water; undertaking protective works to buildings; the authority to survey and investigate land; and the removal of human remains.
- Part 5 (Powers of Acquisition): Articles 22 to 35 provide for the undertaker to be able to compulsorily acquire the order land and rights over and within it, and to be able to temporarily possess parts of the order land for the construction or maintenance of the proposed development. Article 23 sets out a time limit for the exercise of the compulsory acquisition powers and Article 25 provides for the undertaker to suspend or extinguish certain private rights. The provisions provide for compensation to be payable to affected persons in respect of these powers, where that is not already secured elsewhere. Articles 31 and 32 provide for the temporary use of land for constructing and maintaining the proposed development. Article 33 provides for powers in relation to the land and apparatus of statutory undertakers.
- Part 6 (Miscellaneous and General): Articles 36 to 50 include various general provisions in relation to the order:
    - Article 36 sets out who has the benefit of the powers contained in the order and Article 37 sets out how those powers can be transferred.
    - Articles 38 and 39 provide (respectively) for how landlord and tenant law applies in relation to the order and that the order land will be "operational land".
    - Articles 40 and 41 provide (respectively) powers in relation to trees which need to be removed or lopped and for hedgerows to be removed in relation to the proposed development and in relation to trees subject to tree preservation orders.
    - Articles 42 to 50 include provisions relating to the certification of plans and documents relevant to the order; arbitration; protection for statutory undertakers through the protective provisions (set out in Schedule 15); service of notices under the order; procedure in relation to approvals required under the order; guarantees in respect of the payment of compensation; the incorporation of the mineral code; crown rights; and confirming no double recovery of compensation.

18.2.2. There are then 16 Schedules to the order, providing for:

- Schedule 1 – the description of the proposed development.
- Schedule 2 – the requirements that apply to the proposed development (i.e. the controls that apply to the order, similar to planning conditions). Schedule 16 then contains details of the procedure for discharge of requirements required under the order.
- Schedule 3 – a list of the local legislation relating to drainage, infrastructure, land, planning, railways and water that the order will disapply insofar as the provisions (in that local legislation) still in force are inconsistent with the powers contained in the order.
- Schedules 4 to 8 – matters in relation to street works and alterations, public rights of way, access to works and details of the streets subject to traffic regulation measures both during construction of the authorised development and permanently.
- Schedule 9 – details of land in which only new rights may be acquired.
- Schedule 10 – amendments to legislation to ensure appropriate compensation is payable where new rights over land are acquired under the order.
- Schedule 11 – details of land over which temporary possession may be taken.
- Schedule 12 – details of hedgerows to be removed.
- Schedule 13 – the documents and plans to be certified by the SoS.
- Schedule 14 – arbitration rules that apply to most arbitrations in connection with the order.
- Schedule 15 – provisions for the protection of statutory undertakers and their apparatus.
- Schedule 16 – procedure for the discharge of requirements.

18.3. CHANGES DURING EXAMINATION

18.3.1. The content of the dDCO was raised at several points during the examination, including two rounds of written questions [PD-007] [PD-010] and at Issue Specific Hearing (ISH) 4 [EV7-006] [EV7-007].

18.3.2. Discussions on the provisions contained in the dDCO and representations made by the local planning authorities and IPs resulted in a number of changes. Details of the changes made between each version can be found in the applicant's Schedule of Changes to the dDCO [REP5-026].

18.3.3. The ExA does not report on every change that the applicant made to the dDCO, as several were because of typographical errors to resolve grammatical inconsistencies or formatting issues. Notable changes to the dDCO throughout the examination are listed below:

- Deadline 1 [REP1-006]:
    - Definition of crown land plans added to Article 2 (Interpretation) to enable the document to be used in Schedule 13 (Documents and plans to be certified).
    - Amendment made to make clear that a materially new environmental effect would not include the creation of a new positive environmental effect.

- Removal of Article 6 (Disapplication and modification of statutory provisions) part (1) (f) in agreement with the Environment Agency (EA).
- Amendments to Articles 22 (Compulsory acquisition of land) and 32 (Temporary use of land for maintaining the authorised development) based on drafting in the made West Burton Solar Project Order 2025.
- Alteration to Article 40 (Felling or lopping of trees and removal of hedgerows) in response to written question ExQ1.8.7 [PD-007].
- Changes to numerous requirements in Schedule 2 following discussions between the applicant, Lincolnshire County Council (LCC), North Kesteven District Council (NKDC) and other interested parties (IPs).
- Additional requirement added to Schedule 2 in relation to electrical noise as requested by the Ministry of Defence (MoD).
- Amendments to Schedule 12 (Hedgerows to be removed) to allow for footpath connections.
- Addition of protective provisions for Lincolnshire Fire and Rescue Service to Schedule 15.
- Changes to Schedule 16 (Procedure for discharging requirements) following discussion between the applicant and NKDC.

- Deadline 2:
  - A revised dDCO was not submitted at this deadline.
- Deadline 3 [REP3-004]:
  - Definition of draft archaeological mitigation strategy added to Article 2 (Interpretation) to enable the document to be used in Schedule 13 (Documents and plans to be certified).
  - Removal of Article 6 (1)(d) (Disapplication and modification of statutory provisions) in agreement with the EA.
  - Addition of Article 6 (5)(b) (Disapplication and modification of statutory provisions) in response to written question ExQ1.8.2 [PD-007] and discussions at ISH4 [EV7-006] [EV7-007].
  - Changes to numerous requirements in Schedule 2 following discussions between the applicant, LCC, NKDC and IPs.
  - Additions to Schedule 15 (Protective provisions) to include provisions for Network Rail Infrastructure Services, Anglian Water Services Limited, National Grid Electricity Transmission Plc (NGET), National Grid Electricity Distribution (East Midlands) Plc, Cadent Gas Limited and Exolum Pipeline System Limited.
  - Alterations to Schedule 16 (Procedure for discharging requirements) following discussions between the applicant and NKDC and oral discussions at ISH4 [EV7-006] [EV7-007].
- Deadline 4 [REP4-004]:
  - Definition of the National Grid Navenby Substation moved from Schedule 1 to Article 2 (Interpretation).
  - Definition of Navenby Substation area added.

- Changes to numerous requirements in Schedule 2 following discussions between the applicant, LCC, NKDC and IPs.
- Deletions from Schedule 3 (Legislation to be disapplied) as agreed between the applicant and Network Rail.
- Alterations to Schedule 15 (Protective provisions) to update provisions for Network Rail Infrastructure Services, NGET, National Grid Electricity Distribution (East Midlands) Plc, Cadent Gas Limited and Exolum Pipeline System Limited. Also, addition of provisions for British Telecommunications Plc.
- Various amendments made to Schedule 16 (Procedure for discharging requirements) to seek to provide additional certainty and clarity to the discharge of requirements process.

- Deadline 5 [REP5-004]:

  - Change to Article 6 (Disapplication and modification of statutory provisions) to make clear that the paragraph does not relate to development that would be authorised by the DCO.
  - Alteration to Schedule 2(8) (Landscape and ecology management plan) to update biodiversity net gain figures.
  - Amendments to Schedule 2 (20) (Electrical noise) following further discussions between the applicant and the MoD.
  - Alterations to Schedule 15 (Protective provisions) to update provisions for Network Rail Infrastructure Services and Exolum Pipeline System Limited.
  - Change to Schedule 16(6) (Pre-application engagement) made in response to comments by LCC and NKDC.

18.4. ORDER PROVISIONS WITH OUTSTANDING OBJECTIONS

18.4.1. This section considers those parts of the dDCO [REP5-004] where objections remained outstanding at the close of the examination, our recommendations in respect of them and the alterations the ExA considers are necessary to form the rDCO. The ExA does not set out all issues raised or discussed during the examination that were considered to be adequately justified by the applicant or were addressed by the changes to the dDCO during the examination set out above.

SCHEDULE 2 – REQUIREMENTS

18.4.2. The ExA's Schedule of Changes to the dDCO [PD-009] proposed four additional requirements, relating to the following:

- Replacement solar PV panels.
- Restriction of solar PV panels in flood zone 3b.
- Procedure in cases of unexpected contamination.
- Grid connection.

18.4.3. These matters and the ExA's consideration of the applicant's replies to each are set out in Chapter 4: The Principle of the Development, including Climate

Change, Chapter 8: Land, Soils and Groundwater and Chapter 13: Water Environment respectively, of this report.

18.4.4. Such considerations are not repeated here, but the ExA concluded that the rDCO should include the additional requirements to Schedule 2, as proposed in the ExA's Schedule of Changes to the dDCO, except in relation to replacement solar PV panels.

SCHEDULE 15 - PROTECTIVE PROVISIONS

NATIONAL GRID ELECTRICITY TRANSMISSION PLC

18.4.5. Protective provisions (PPs) were discussed between the applicant and NGET throughout the examination. The Statement of Common Ground (SoCG) between the parties [REP5-017] confirmed that agreement had not been fully reached at the end of the examination and that negotiations would continue. NGET set out [REP5-033] what the key differences are between the parties and based on this and a comparison with the applicant's preferred dDCO [REP5-004], these are summarised as:

- NGET requires a definition of "acceptable credit provider" to be added.
- A definition of "acceptable insurance" is considered necessary by NGET, to provide insurance for a figure of not less than £50 million, which it establishes is necessary to protect its apparatus from any damage or injury caused by the authorised works.
- NGET would like its definition of "acceptable security" to be added. This would be either a parent company guarantee or a bank bond or letter of credit in favour of NGET to cover the applicant's liability to NGET to a total cap of £50 million.
- NGET considers its definition of "parent company" should be added.
- Disagreement over provisions for the interaction with the National Grid Navenby Substation (NGNS) and reciprocal requirements.
- NGET objects to the applicant adding provisions which require NGET to submit plans to the applicant and take any comments into account.
- Disagreement over indemnity matters and reciprocal provisions sought by the applicant.
- NGET is concerned by the word "direct" in expenses provisions as it is considered that this narrows the recoverability of expenses by NGET should any of their apparatus be affected.
- NGET objects to the amended definition of 'grid connection works' in Article 2 to the dDCO. NGET considers that the new definition is not acceptable as it narrows the meaning to one single plot in the order land (plot 11/1) and there are other areas near to this plot where DCO works could affect the proposed NGNS works.

18.4.6. The applicant has not provided any detailed reasoning for why the PPs, including the level of insurance and indemnity sought by NGET are unacceptable. Other than setting out [REP5-030] it has included provisions that it considers are appropriate to ensure appropriate cooperation and collaboration between the two projects, the applicant has also not provided any justification for seeking reciprocal provisions in terms of NGET needing

to secure agreement with the applicant in terms of interaction with the proposed NGNS or in terms of indemnity.

18.4.7. Based on the information provided, the ExA considers that NGET is best placed to identify the provisions and financial amounts necessary to protect its apparatus. On this basis, the ExA has included the PPs provided by NGET in full in its rDCO.

18.4.8. The ExA has also not included the definition changes made to grid connection works or the addition of a definition for the "Navenby substation area" as set out in Article 2 of the applicant's dDCO [REP5-004]. The EM [REP5-006] states that these changes have been made as it represents a more realistic scenario both in terms of works that NGET may need the benefit of under the DCO and the extent of supervision that is appropriate from NGET under the PPs. However, the ExA considers that the applicant has not provided sufficient evidence to demonstrate that there would be no effect on the proposed NGNS works outside of plot 11/1.

18.4.9. The SoS may wish to ask for an update on discussions between the parties.

OPENREACH LIMITED

18.4.10. Openreach Ltd did not provide any representations to the examination. However, the applicant advised [REP5-008] that the parties were still engaged in negotiating PPs at the end of the examination and will continue to seek to reach agreement.

18.4.11. Notwithstanding this, the applicant set out that if agreement is not reached then Openreach Ltd would benefit from the protection of the PPs provided at Part 11 of Schedule 15 of the rDCO. The ExA considers that the general provisions in Part 11 of Schedule 15 of the rDCO would suitably protect the assets and interests of Openreach Ltd and no alterations are needed to the rDCO.

18.4.12. The SoS may wish to request an update on these discussions.

SCHEDULE 16 - PROCEDURE FOR DISCHARGING REQUIREMENTS

18.4.13. LCC and NKDC considered [REP5-022] [REP5-031] that 2 working days set out in Schedule 16(5) (Pre-application engagement) would be insufficient to allow for a review of additional information, as such information might comprise the submission of amendments to technical reports that could be more time consuming to review.

18.4.14. The applicant set out [REP5-022] that since this stage is primarily about verifying whether the provided information meets the original request (rather than conducting a full reassessment), a shorter timeframe would be suitable so that timely progress can be made. The applicant did amend the dDCO [REP5-004] to increase the time frame to 5 working days, or such longer period as is agreed (including where the quantity of information is substantial or where there is a requirement for consultees to be involved). LCC and

NKDC responded [REP5-031] [REP5-032] by setting out that a compromise of 10 working days (or longer as agreed) would be acceptable to them.

18.4.15. The ExA considers that 5 working days is a reasonable timeframe given that it relates to verifying whether the provided information meets the original request as opposed to conducting a reassessment, as set out by the applicant. Further, the ExA is mindful that if additional time is needed, in the event that the quantity of information is substantial or there is a need to involve consultee(s), then this can be accommodated by agreement. On this basis, the ExA considers no changes are needed to the rDCO in this regard.

18.5. EXA'S CONCLUSIONS ON THE DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

18.5.1. The ExA acknowledges the issues raised above by the parties. The ExA has amended the dDCO in its rDCO, as set out in Appendix C where this has been considered necessary. The ExA is content with the remainder of the dDCO in its final revision [REP5-004]. Taking all matters raised in this section and all matters relevant to the DCO raised throughout the examination and in this report, if the SoS is minded to make the order, the ExA recommend it should be made in the form set out in Appendix C.

19. SUMMARY OF FINDINGS AND CONCLUSIONS

19.1. INTRODUCTION

19.1.1. This chapter summarises the Examining Authority's (ExA) conclusions and sets out its recommendation to the Secretary of State for Energy Security and Net Zero (SoS).

19.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

19.2.1. As the ExA has noted in Chapter 4 above, the urgent need for low carbon energy is established through the National Policy Statements (NPS). In relation to section (s) 104 of the Planning Act 2008 (PA2008), the ExA concludes that making the recommended Development Consent Order (rDCO) would be in accordance with NPS EN-1, NPS EN-3 and where relevant, NPS EN-5.

19.2.2. In reaching its conclusions, the ExA has also had regard to the Local Impact Reports (LIRs) produced by Lincolnshire County Council [REP1-088] and North Kesteven District Council [REP1-102].

19.2.3. Whilst the SoS is the competent authority under the Conservation of Habitats and Species Regulations 2017, and will make the definitive assessment, the ExA concludes that there would be no likely significant effects to any European site and its qualifying features as a result of the proposed development, either alone or in combination with other plans or projects. Therefore, as set out in Chapter 15 of this report, an 'appropriate assessment' is not required.

19.2.4. In terms of biodiversity and bearing in mind Regulation 7 of the Decisions Regulations, the ExA is satisfied that biodiversity, ecological and nature conservation issues have been adequately assessed and that the requirements of NPS EN-1 are met. The ExA has had due regard to conserving and enhancing biodiversity and fulfilling our biodiversity duty in accordance with the Natural Environment and Rural Communities Act 2006.

19.2.5. Regarding designated heritage assets and in consideration of Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 (Decisions Regulations), the ExA has found the proposed development would result in less than substantial harm to a number of designated heritage assets. However, those harms are outweighed by the substantial public benefits from the provision of low carbon energy to meet the need identified in NPS EN-1.

19.2.6. The ExA has considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights in order to implement the proposed development. The ExA is satisfied that the legal interests in all plots of land included in the final Book of Reference [REP4-008] and indicated on the final Land Plans [AS-004] would be required for the proposed development with regard to both CA and TP powers. The ExA considers the application site has been selected appropriately, all reasonable alternatives are explored, and the applicant has a clear idea of how it intends

to use the land. The ExA is satisfied that the land to be taken is no more than is reasonably required and is proportionate. Further, the ExA is content that there is a clear need to secure the land and rights required in order to construct, operate and maintain the proposed development within a reasonable timeframe. The ExA is also satisfied that the applicant would have the necessary funding for the implementation of the proposed development and that the rDCO provides a mechanism through which funding can be guaranteed.

19.2.7. The ExA has had regard to the provisions of the Human Rights Act 1998, in particular Article 6 (right to a fair trial) and Article 1 of the First Protocol (protection of property). The ExA considers that the examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the proposed development is proportionate and strikes a fair balance between the rights of the individual and the public interest. The ExA is satisfied that compensation would be available in respect of any quantifiable loss. There is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

19.2.8. The ExA has had regard to the Public Sector Equality Duty (PSED) throughout the examination and in producing this report. The proposed development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.

19.2.9. With regard to all other matters and representations received, the ExA has found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.

19.2.10. Our conclusions are subject to the provisions of the recommended Development Consent Order (rDCO) in Appendix C. The ExA finds that the benefits of the proposed development are not outweighed by the identified harm in terms of landscape and visual, cultural heritage and land, soil and groundwater.

19.3. RECOMMENDATION

19.3.1. For all the above reasons, and having regard to the LIRs produced by LCC and NKDC as well as the ExA's findings and conclusions on important and relevant matters set out in this report, the ExA concludes that the case for the development has been made, and recommends that the SoS makes the Springwell Solar Farm Order in the form set out in Appendix C to this report.

APPENDICES

APPENDICES I

APPENDIX A: KEY LEGISLATION AND DEVELOPMENT PLAN POLICIES II

APPENDIX B: ABBREVIATIONS VII

APPENDIX C: THE RECOMMENDED DCO XIII

APPENDIX A: KEY LEGISLATION AND DEVELOPMENT PLAN POLICIES

Legislation
Acquisition of Land Act 1981
Air Quality (England) Regulations 2000
Air Quality Standards Regulations 2010 (as amended)
The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019
Ancient Monuments and Archaeological Areas Act 1979
Building Act 1984 and the Building Regulations 2010
Carbon Budget Order 2021
Climate Change Act 2008 (Credit Limit) Order 2021
Climate Change Act 2008
Commons Registration Act 1965
Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations 2017')
Contaminated Land (England) (Amendment) Regulations 2012
Control of Pollution Act 1974
Compulsory Purchase Act 1965
Compulsory Purchase (Vesting Declarations) Act 1981
Countryside and Rights of Way Act 2000
Equality Act 2010
Electricity Act 1989
The Environment Act 1995
Environment Act 2021
Environment (Amendment etc.) (EU Exit) Regulations 2019
Environmental Damage (Prevention and Remediation) (England) Regulations 2015
Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020
Environmental Permitting (England and Wales) Regulations 2016
Environmental Protection Act 1990

Environmental Noise (England) Regulations 2006 (as amended)

Environmental Permitting (England and Wales) Regulations 2016

Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019

European Commission Circular Economy Package Environmental Protection Act 1990

European Landscape Convention (ELC) (Council of Europe, 2016) Hedgerow Regulations 1997

Flood Risk Regulations 2009

Flood and Water Management Act 2010

Groundwater (Water Framework Directive) (England) Direction 2016

Hazardous Waste (England and Wales) Regulations 2005

Health and Safety at Work Act 1974

Health and Social Care Act 2012

The Hedgerows Regulations 1997

Highways Act 1980

Human Rights Act 1998

The Infrastructure Planning (Decisions) Regulations 2010

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

Land Drainage Act 1991

Levelling Up and Regeneration Act 2023

Localism Act 2011

Marine and Costal Access Act 2009

National Parks and Access to the Countryside Act 1949

National Parks and Access to the Countryside Act 2000

Natural Environment and Rural Communities Act 2006

Neighbourhood Planning Act 2017

Noise Insulation Regulations 1975

The Planning Act 2008

Planning (Hazardous Substances) Act 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

Pollution Prevention and Control Act 1999

Protection of Badgers Act 1992

Town and Country Planning Act 1990

Waste (England and Wales) Regulations 2011

Waste Electrical and Electronic Equipment Regulations 2013

Water Abstraction and Impounding (Exemptions) Regulations 2017

Water Act 2003

Water Act 2014

Water Framework Directive (2000/60/EC)

Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015

Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

Water Industry Act 1991

Water Resources (Abstraction and Impounding) Regulations 2006

Water Resources Act 1991

Water Supply (Water Quality) Regulations 2018

Wild Mammals (Protection) Act 1996

Wildlife and Countryside Act 1981

DEVELOPMENT PLAN POLICIES REFERRED TO BY THE APPLICANT OR IN LOCAL IMPACT REPORTS

Plan	Policies
Lincolnshire Minerals and Waste Local Plan, Core Strategy and Development Management Policies (adopted June 2016)	Policy DM1: Presumption in favour of sustainable development
	Policy DM4: Historic Environment
	Policy DM12: Best and Most Versatile Agricultural Land
	Policy M11: Safeguarding of Mineral Resources
	Policy M12: Safeguarding of Existing Mineral Sites and Associated Minerals Infrastructure
	Policy W1: Future Requirements for New Waste Facilities.

Central Lincolnshire Local Plan (Adopted April 2023)	Policy S1: The Spatial Strategy and Settlement Hierarchy Policy S2: Level and Distribution of Growth Policy S5: Development in the Countryside Policy S10: Supporting the Circular Economy Policy S11: Embodied Carbon Policy S9: Decentralised Energy Networks and Combined Heat and Power Policy S10: Supporting a Circular Economy Policy S11: Embodied Carbon Policy S12: Water Efficiency and Sustainable Water Management Policy S14: Renewable Energy Policy S15: Protecting Renewable Energy Infrastructure Policy S16: Wider Energy Infrastructure Policy S21: Flood Risk and Water Resources Policy S28: Spatial Strategy for Employment Policy S45: Strategic Infrastructure Requirements Policy S47: Accessibility and Transport Policy S48: Walking and Cycling Infrastructure Policy S49: Parking Provision Policy S53: Design and Amenity Policy S54: Health and Wellbeing Policy S57: The Historic Environment Policy S58: Protecting Lincoln, Gainsborough and Sleaford's Setting and Character Policy S59: Green and Blue Infrastructure Network Policy S60: Protecting Biodiversity and Geodiversity Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains Policy S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value

	Policy S66: Trees, Woodland and Hedgerows Policy S67: Best and Most Versatile Agricultural Land Policy S84: Ministry of Defence Establishments
Scopwick and Kirkby Green Neighbourhood Plan (2021-2036)	Policy 1: Sustainable Development, Limited Infill and the Development Boundary Policy 2: Protecting the Landscape Character Policy 3: Protecting and Enhancing Biodiversity Policy 5: Conservation and Enhancement of Non-Vehicular Routes Policy 6: Achieving High Quality Design Policy 8: Enhancing the Provision of Community Facilities Policy 10: Protecting Heritage Assets

APPENDIX B: ABBREVIATIONS

Abbreviation	Meaning
AA	Appropriate Assessment
ADBA	Archaeological Desk-Based Assessment
AEoI	Adverse effects on integrity
ALC	Agricultural Land Classification
ANCB	Appropriate Nature Conservation Body
AP	Affected Person
ASI	Accompanied Site Inspection
ATC	Air Traffic Control
BESS	Battery Energy Storage System
BMV	Best and Most Versatile (in relation to agricultural land)
BNG	Biodiversity Net Gain
BoR	Book of Reference
BS	British Standard
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAD	Computer Aided Design
CAH	Compulsory Acquisition Hearing
CAST	Combined Aerodrome Safeguarding Team
CCGT	Combined Cycle Gas Turbine
CCS	Carbon Capture and Storage
CCTV	Closed Circuit Television
CEMP	Construction Environmental Management Plan
CIEEM	Chartered Institute of Ecology and Environmental Management
CIRIA	Construction Industry Research and Information Association
CJEU	Court of Justice of the European Union
CLLP	Central Lincolnshire Local Plan

CNP	Critical National Priority
CTMP	Construction Traffic Management Plan
D	Deadline
DAD	Design Approach Document
dB	Decibels
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DEFRA	Department for Environment, Food & Rural Affairs
DEMP	Decommissioning Environmental Management Plan
DfT	Department for Transport
EA	Environment Agency
EEA	European Economic Area
EIA	Environmental Impact Assessment
EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
EL	Examination Library
ELC	European Landscape Convention
EMF	Electromagnetic Fields
ENIMP	Electrical Noise Interference Management Plan
ERP	Emergency Response Plan
ES	Environmental Statement
ESG	Environmental Steering Group
EU	European Union
ExA	Examining Authority
FEMA	Functional Economic Market Area
FRA	Flood Risk Assessment
FRS	Fire and Rescue Service
gCO_2e/kWh	Grams of Carbon Dioxide per Kilowatt Hour
GHG	Greenhouse Gas
GVA	Gross Value Added
ha	Hectares

HDD	Horizontal Directional Drilling
HE	Historic England
HER	Historic Environment Records
HGV	Heavy Goods Vehicle
HRA	Habitats Regulations Assessment
IAPI	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management
IEMA	Institute of Environmental Management and Assessment
IFC	International Finance Corporation
IP	Interested Party
ISH	Issue Specific Hearing
ITS	Inverter Transformer Stations
km	Kilometres
LCA	Landscape Character Area
LCC	Lincolnshire County Council
LCT	Landscape Character Type
LEMP	Landscape Environmental Management Plan
LGV	Light Goods Vehicle
LiDAR	Light Detection and Ranging
LIR	Local Impact Report
LMWLP	Lincolnshire Minerals and Waste Local Plan
LOAEL	Lowest Observed Adverse Effect Level
LPA	Local Planning Authority
LSE	Likely Significant Effects
LWS	Local Wildlife Sites
m	Metres
MAFF	Ministry of Agriculture, Fisheries and Food
MoD	Ministry of Defence
MW	Megawatts
MWh	Megawatt Hours
NCA	National Character Area

NE	Natural England
NFCC	National Fire Chiefs Council
NGED	National Grid Electricity Distribution plc
NGET	National Grid Electricity Transmission plc
NGNS	National Grid Navenby Substation
NH	National Highways
NHLE	National Heritage List for England
NKDC	North Kesteven District Council
NOEL	No Observed Effect Level
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NSER	No Significant Effects Report
NSIP	Nationally Significant Infrastructure Project
oBSMP	Outline Battery Safety Management Plan
oCEMP	Outline Construction Environmental Management Plan
oCTMP	Outline Construction Traffic Management Plan
oDEMP	Outline Decommissioning Environmental Management Plan
oDS	Outline Drainage Strategy
OEMP	Operational Environment Management Plan
oESSCP	Outline Employment, Skills and Supply Chain Plan
OFH	Open Floor Hearing
OHL	Overhead Lines
oLEMP	Outline Landscape Environmental Management Plan
oOEMP	Outline Operational Environment Management Plan
oPRoWPPMP	Outline Public Rights of Way and Permissive Paths Management Plan
oSMP	Outline Soil Management Plan
oSWMP	Outline Site Waste Management Plan
oWSI	Outline Written Scheme of Investigation
PA2008	The Planning Act 2008

PD	Procedural Decision
PEIR	Preliminary Environmental Information Report
PHE	Public Health England
PM	Preliminary Meeting
PM10	Particulate Matter less than 10 micrometres in diameter
PM2.5	Particulate Matter less than 2.5 micrometres in diameter
PPG	Planning Practice Guidance
PPs	Protective Provisions
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
PV	Photovoltaic
Q	Quarter (of a year)
QBAR	The peak rate of flow from a catchment for the mean annual flood
R	Requirement
RAF	Royal Air Force
rDCO	Recommended Development Consent Order
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RVAA	Residential Visual Amenity Assessment
s	Section (of an Act)
s106	Section 106 of the Town and Country Planning Act 1990
SAC	Special Area of Conservation
SKGNP	Scopwick and Kirkby Green Neighbourhood Plan
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SoSD	Secretary of State for Defence
SPA	Special Protection Area
SPZ	Source Protection Zone

SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
STEAM	Scarborough Tourism Economic Activity Monitor
SU	Statutory Undertakers
TA	Transport Assessment
tCO_2e	Tonnes of Carbon Dioxide Equivalent
TEMPro	Trip End Model Presentation Program
TP	Temporary Possession
UK	United Kingdom
UK HSA	UK Health Security Agency
USI	Unaccompanied Site Inspection
UXO	Unexploded Ordnance
WAM	Wide Area Multilateration
WEEE	Waste Electrical or Electronic Equipment
WFD	Water Framework Directive
WHO	World Health Organisation
WWII	World War Two
ZTV	Zone of Theoretical Visibility

APPENDIX C: THE RECOMMENDED DCO

STATUTORY INSTRUMENTS

202* No. ****

INFRASTRUCTURE PLANNING

The Springwell Solar Farm Order 202*

Made - - - - ***

Coming into force ***

CONTENTS

PART 1
PRELIMINARY

1. Citation and commencement
2. Interpretation

PART 2
PRINCIPAL POWERS

3. Development consent etc. granted by this Order
4. Operation of generating station
5. Power to maintain authorised development
6. Disapplication and modification of statutory provisions
7. Defence to proceedings in respect of statutory nuisance

PART 3
STREETS

8. Street works
9. Application of the permit scheme
10. Power to alter layout, etc., of streets
11. Status of public rights of way constructed or improved
12. Construction and maintenance of new and altered streets
13. Temporary prohibition or restriction on use of streets and public rights of way
14. Claimed public right of way
15. Access to works
16. Agreements with street authorities
17. Traffic regulation measures

PART 4
SUPPLEMENTAL POWERS

18. Discharge of water
19. Protective works to buildings
20. Authority to survey and investigate the land
21. Removal of human remains

PART 5
POWERS OF ACQUISITION

22. Compulsory acquisition of land
23. Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily
24. Compulsory acquisition of rights
25. Private rights
26. Application of the 1981 Act
27. Acquisition of subsoil only
28. Power to override easements and other rights
29. Modification of Part 1 of the Compulsory Purchase Act 1965
30. Rights under or over streets
31. Temporary use of land for constructing the authorised development
32. Temporary use of land for maintaining the authorised development
33. Statutory undertakers
34. Apparatus and rights of statutory undertakers in closed or restricted streets
35. Recovery of costs of new connections

PART 6
MISCELLANEOUS AND GENERAL

36. Benefit of the Order
37. Consent to transfer the benefit of the Order
38. Application of landlord and tenant law
39. Operational land for purposes of the 1990 Act
40. Felling or lopping of trees and removal of hedgerows
41. Trees subject to tree preservation orders
42. Certification of plans and documents, etc.
43. Arbitration
44. Protective Provisions
45. Service of notices
46. Procedure in relation to certain approvals etc.
47. Guarantees in respect of payment of compensation
48. Compulsory acquisition of land - incorporation of the mineral code
49. Crown rights
50. No double recovery

SCHEDULES

SCHEDULE 1 — AUTHORISED DEVELOPMENT
SCHEDULE 2 — REQUIREMENTS
SCHEDULE 3 — LEGISLATION TO BE DISAPPLIED
SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS
SCHEDULE 5 — ALTERATION OF STREETS
SCHEDULE 6 — STREETS AND PUBLIC RIGHTS OF WAY
PART 1 — STATUS OF PUBLIC RIGHTS OF WAY CREATED OR IMPROVED
PART 2 — TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS
PART 3 — TEMPORARY PROHIBITION OR RESTRICTION OF PUBLIC RIGHTS OF WAY
PART 4 — TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY
SCHEDULE 7 — ACCESS TO WORKS
SCHEDULE 8 — TRAFFIC REGULATION MEASURES
PART 1 — TEMPORARY SPEED LIMITS
PART 2 — TEMPORARY ROAD CLOSURES
PART 3 — TEMPORARY TRAFFIC SIGNALS
PART 4 — PERMANENT SPEED LIMITS
SCHEDULE 9 — LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED
SCHEDULE 10 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS
SCHEDULE 11 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
SCHEDULE 12 — HEDGEROWS TO BE REMOVED
PART 1 — REMOVAL OF HEDGEROWS
PART 2 — REMOVAL OF IMPORTANT HEDGEROWS
SCHEDULE 13 — DOCUMENTS AND PLANS TO BE CERTIFIED
SCHEDULE 14 — ARBITRATION RULES
SCHEDULE 15 — PROTECTIVE PROVISIONS
PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS
PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
PART 3 — FOR THE PROTECTION OF DRAINAGE AUTHORITIES
PART 4 — FOR THE PROTECTION OF LINCOLNSHIRE FIRE AND RESCUE SERVICE
PART 5 — FOR THE PROTECTION OF RAILWAY INTERESTS
PART 6 — FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED
PART 7 — FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER
PART 8 — FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC

PART 9 — FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER
PART 10 — FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LTD
PART 11 — FOR THE PROTECTION OF BRITISH TELECOMMUNICATIONS PLC
SCHEDULE 16 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS

An application has been made to the Secretary of State under section 37 of the Planning Act 2008 ("the 2008 Act")(**a**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) for an order granting development consent.

The application has been examined by the Examining Authority appointed by the Secretary of State pursuant to chapter 2 of Part 6 of the 2008 Act and carried out in accordance with chapter 4 of Part 6 of the Infrastructure Planning (Examination Procedure) Rules 2010(**c**).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2)(**d**) of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**e**) and has had regard to the documents and matters referred to in section 104(2)(**f**) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114(**g**), 115(**h**), 117(**i**), 120(**j**), 122(**k**), 123(**l**) and 140 of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Springwell Solar Farm Order 202[ ] and comes into force on [X] 202*.

(**a**) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264.
(**c**) S.I. 2010/103.
(**d**) As amended by paragraph 29(1) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**e**) S.I. 2017/572.
(**f**) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c. 23) and by paragraph 49 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**g**) As amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**h**) As amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**i**) As amended by paragraph 58 of Part 1 of Schedule 13 and paragraph 1 of Part 20 of Schedule 25 to the Localism Act 2011 (c. 20).
(**j**) As amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**k**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**l**) Ibid.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**a**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**b**);

"the 1980 Act" means the Highways Act 1980(**c**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**d**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**e**);

"the 1989 Act" means the Electricity Act 1989(**f**);

"the 1990 Act" means the Town and Country Planning Act 1990(**g**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**h**);

"the 2008 Act" means the Planning Act 2008(**i**);

"address" includes any number or address used for the purposes of electronic transmission;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets;

"authorised development" means the development and associated development described in Schedule 1 (authorised development), which is development within the meaning of section 32 (meaning of "development") of the 2008 Act;

"book of reference" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the book of reference for the purposes of this Order;

"bridleway" has the same meaning as in the 1980 Act;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in the 1980 Act;

"commence" means beginning to carry out a material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out or for the purposes of the authorised development other than the permitted preliminary works (except where stated to the contrary) and "commencement" and "commenced" are to be construed accordingly;

"crown land plans" means the plans of that name identified in the table in Schedule 13 and which are certified by the Secretary of State as the crown land plans for the purposes of this Order;

"date of decommissioning" means in respect of each part of the authorised development, the date that that part of the authorised development has permanently ceased to generate electricity on a commercial basis;

"date of final commissioning" means the date on which the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

"design commitments" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the design commitments for the purposes of this Order;

(**a**) 1961 c. 33.
(**b**) 1965 c. 56.
(**c**) 1980 c. 66.
(**d**) 1981 c. 66.
(**e**) 1984 c. 27.
(**f**) 1989 c. 29.
(**g**) 1990 c. 8.
(**h**) 1991 c. 22.
(**i**) 2008 c. 29.

"draft archaeological mitigation strategy" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the draft archaeological mitigation strategy for the purposes of this Order;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"environmental statement" means the document of that name identified in the table in Schedule 13 and which is certified by the Secretary of State as the environmental statement for the purposes of this Order;

"footpath" and "footway" have the same meaning as in the 1980 Act;

"grid connection works" means that part of the authorised development identified in work numbers 5, 7, 8 and 9 (to the extent work numbers 7, 8 and 9 are necessary in connection with work number 5);

"highway" and "highway authority" have the same meaning as in the 1980 Act(**a**);

"land plans" means sheets 1 - 15 of the plans of that name identified in the table in Schedule 13 and which are certified by the Secretary of State as the land plans for the purposes of this Order;

"maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development and "maintenance" and "maintaining" are to be construed accordingly;

"National Grid Navenby Substation" means the proposed substation at Heath Lane, Navenby, LN5 0AY, owned and operated by NGET;

"NGET" means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1 to 3 Strand, London WC2N 5EH;

"Order land" means the land shown coloured pink, blue or green on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

"Order limits" means the limits shown on the works plans within which the authorised development may be carried out and land acquired or used;

"outline battery safety management plan" means the plan of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline battery safety management plan for the purposes of this Order;

"outline construction environmental management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order;

"outline construction traffic management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order;

"outline decommissioning environmental management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline decommissioning environmental management plan for the purposes of this Order;

"outline drainage strategy" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline drainage strategy for the purposes of this Order;

"outline employment, skills and supply chain plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline employment, skills and supply chain plan for the purposes of this Order;

(**a**) "highway" is defined in section 328(1). For "highway authority" see section 1.

"outline landscape and ecology management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline landscape and ecology management plan for the purposes of this Order;

"outline operational environmental management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline operational environmental management plan for the purposes of this Order;

"outline public right of way and permissive path management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline public right of way and permissive path management plan for the purposes of this Order;

"outline soil management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline soil management plan for the purposes of this Order;

"outline written scheme of investigation" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline written scheme of investigation for the purposes of this Order;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**a**);

"the permit scheme" means the Lincolnshire Permit Scheme for Road Works and Street Works Order 2016, which scheme is made under Part 3 of the Traffic Management Act 2004;

"permitted preliminary works" means all or any of—

(c) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions;

(d) removal of plant and machinery;

(e) above ground site preparation for temporary facilities for the use of contractors;

(f) remedial work in respect of any contamination or other adverse ground conditions;

(g) diversion of existing services and the laying of temporary services;

(h) the provision of temporary means of enclosure and site security for construction;

(i) the temporary display of site notices or advertisements;

(j) site clearance (including vegetation removal, demolition of existing structures or buildings); or

(k) Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)

"plot" means any plot as may be identified by reference to a number and which is listed in the book of reference and shown on the land plans;

"project parameters" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the project parameters for the purposes of this Order;

"relevant planning authority" means the local planning authority for the area in which the land to which the provisions of this Order apply is situated and as more particularly described for the purposes of the requirements in Schedule 2 (requirements);

"requirements" means those matters set out in Schedule 2 and "requirement" means any one of the requirements;

"statutory undertaker" means any person falling within section 127(8) (statutory undertakers' land) of the 2008 Act and includes a public communications provider defined by section 151(1) (interpretation of chapter 1) of the Communications Act 2003(**b**)

(**a**) 1981 c. 67.
(**b**) 2003 c. 21.

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**a**)

"street works" means the works listed in article 8(1) (street works)

"streets, rights of way and access plans" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the streets, rights of way and access plans for the purposes of this Order;

"subsidiary" has the same meaning as in section 1159 of the Companies Act 2006(**b**);

"traffic authority" has the same meaning as in section 121A (traffic authorities) of the 1984 Act(**c**);

"traffic regulations plans" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the traffic regulations plans;

"undertaker" means Springwell Energyfarm Limited (company number 13484004) and any other person who for the time being has the benefit of this Order in accordance with article 36 (benefit of the Order) or article 37 (consent to transfer the benefit of the Order);

"Upper Tribunal" means the Lands Chamber of the Upper Tribunal;

"vegetation removal parameters" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the vegetation removal parameters for the purposes of this Order;

"watercourse" includes every river, stream, creek, ditch, drain, canal, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer or drain;

"working day" means any day other than a Saturday, Sunday or English bank or public holiday; and

"works plans" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

(3) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between lines or points on a numbered work comprised in the authorised development and shown on the works plans and streets, rights of way and access plans and traffic regulations plans are to be taken to be measured along that work.

(4) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 and shown on the works plans and a reference in this Order to a work designated by a number, or by a combination of letters and numbers, is a reference to the work so designated in that Schedule and a reference to "Work No. 2" or "numbered work 2" means numbered works 2A and 2B inclusive and the same principle applies to such numbered works that contain letters.

(5) In this Order, the expression "includes" is to be construed without limitation.

(6) In this Order, references to any statutory body include that body's successor bodies.

(**a**) "street authority" is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act (c. 7).

(**b**) 2006 c. 46.

(**c**) Section 121A was inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 271 of the Greater London Authority Act 1999 (c. 29); section 1(6) of, and paragraphs 70 and 95 of Schedule 1 to the Infrastructure Act 2015; and S.I. 1999/1920 and S.I. 2001/1400.

(7) All areas described in square metres in the book of reference are approximate.

(8) In this Order, references to materially new or materially different environmental effects in comparison with those reported in the environmental statement are not to be construed so as to include the avoidance, removal or reduction of an assessed adverse environmental effect or a positive environmental effect, or the increase of an assessed positive environmental effect or creation of a new positive environmental effect. A matter will be within scope of the environmental statement if it does not give rise to materially new or materially different environmental effects to those reported in the environmental statement.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order and the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans.

Operation of generating station

4.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Power to maintain authorised development

5.—(1) The undertaker may at any time maintain the authorised development.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

(3) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

Disapplication and modification of statutory provisions

6.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction, operation, maintenance or decommissioning of any part of the authorised development—

(a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(**a**);

(b) section 32 (variation of awards)(**b**) of the Land Drainage Act 1991;

(c) the provisions of any byelaws made under section 66(**c**) (powers to make byelaws) of the Land Drainage Act 1991;

(**a**) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.

(**b**) Section 32 was amended by S.I. 2013/755.

(**c**) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).

(d) section 118 (consent request for discharge of trade effluent into public sewer) of the Water Industry Act 1991;

(e) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions still in force are incompatible with the powers contained within this Order; and

(f) the provisions of the Neighbourhood Planning Act 2017(**a**) insofar as they relate to the temporary possession of land under articles 31 (temporary use of land for constructing the authorised development) and 32 (temporary use of land for maintaining the authorised development) of this Order.

(2) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(**b**) any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the construction of the authorised development is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Regulation 6(1) of the Hedgerows Regulations 1997 has effect as though after sub-paragraph (e) there were added—

"(ea) for carrying out any development or in the exercise of any functions that are authorised by the Springwell Solar Farm Order 202[ ];"

(4) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of "development") of the Community Infrastructure Levy Regulations 2010(**c**) any building comprised in the authorised development is deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

(5) If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

(a) not itself a development for which development consent is required under the 2008 Act or part of such a development;

(b) not for development authorised by Schedule 1 of this Order; or

(c) required to complete or enable the maintenance, use or operation of any part of the development authorised by this Order (and which is not itself development authorised by this Order),

then the construction, maintenance, use or operation of that development under the terms of the planning permission does not constitute a breach of the terms of this Order.

(6) To the extent that any development carried out or used—

(a) pursuant to a planning permission granted under section 57 (requirement of planning permission) or section 73 (determination of applications to develop land without compliance with conditions previously attached) of the 1990 Act, including if changed by a determination by the local planning authority under section 96A (power to make non-material changes to planning permission or permission in principles) of the 1990 Act, or compliance with any conditions of that permission; or

(b) pursuant to any development consent order granted under section 114 (grant or refusal of development consent) of the 2008 Act, including any corrections or amendments to that development order made under section 119 (correction of errors in development consent decisions) or section 153 (changes to, and revocation of, orders granting development consent) of the 2008 Act, or compliance with the terms of that development consent order; or

---

(**a**) 2017 c. 20.

(**b**) Section 9 was amended by section 4 of, and paragraph 141 of, Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2013/755. There are other amendments to section 9 that are not relevant to this Order.

(**c**) S.I. 2010/948, amended by S.I. 2011/987; there are other amending instruments but none are relevant to this Order.

(c) pursuant to a consent granted by the Secretary of State pursuant to section 36 (consent required for construction of etc. generating stations) of the 1989 Act, including any variation to that consent made under section 36C (variation of consents under section 36) of that Act,

is inconsistent with the exercise of any power, right or obligation under this Order or the authorised development—

(d) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission or development consent order is capable of physical implementation; and

(e) in respect of that inconsistency, no enforcement action under the 1989 Act, 1990 Act or the 2008 Act may be taken, whether that inconsistency relates to land inside or outside the Order limits.

(7) Any development or any part of a development within the Order limits which is constructed or used under the authority of any permission falling under paragraphs (5) or (6) is deemed not to be a breach of, or inconsistent with, this Order and does not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.

(8) In paragraph (3), "enforcement action" means any enforcing action under Part 7 (enforcement) of the 1990 Act or Part 8 of the 2008 Act, as relevant.

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**a**) in relation to a nuisance falling within sub-paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

(a) relates to premises used by the undertaker for the purposes of or in connection with the authorised development and that the nuisance is attributable to the construction, maintenance or decommissioning of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974, or any document approved under the provisions of Schedule 2 of the Order; or

(b) is a consequence of the construction, maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or

(c) the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of the premises by the undertaker for purposes of, or in connection with, the construction, maintenance or decommissioning of the authorised development.

PART 3

STREETS

Street works

8.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(**a**) 1990 c. 43.

(b) drill, tunnel or bore under the street;

(c) place and keep apparatus under the street;

(d) maintain apparatus under the street, change its position or remove it;

(e) repair, replace or otherwise alter the surface or structure of the street or any culvert under the street; and

(f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

Application of the permit scheme

9.—(1) The permit scheme applies with the modifications set out in this article to street works carried out under the power conferred by article 8 (street works) of this Order.

(2) For the purposes of this Order—

(a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; and

(b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(3) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(4) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit scheme or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit scheme in accordance with the mechanism set out in Schedule 16 (procedure for discharge of requirements) of this Order.

Power to alter layout, etc., of streets

10.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street in the case of the streets specified in column 2 of the table in Schedule 5 (alteration of streets) permanently in the manner specified in relation to that street in column 3.

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating or maintaining the authorised development, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

(a) alter the level or increase the width of any kerb, footway, cycle track or verge; and

(b) make and maintain passing places.

(3) The undertaker must restore any street that has been temporarily altered under this Order to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Status of public rights of way constructed or improved

11. With effect from the date on which the highway authority has confirmed that the public rights of way specified in column 2 of Part 1 (status of public rights of way created or improved) of Schedule 6 (streets and public rights of way) have been created or improved in accordance with details approved pursuant to requirement 17 (public right of way and permissive path management plan) in Schedule 2 (requirements), the public rights of way in question will be deemed to have the status specified in column 3 of that Part of that Schedule.

Construction and maintenance of new and altered streets

12.—(1) Each of the streets constructed, improved or altered by the undertaker under the powers conferred by article 10 (power to alter layout, etc., of streets) and article 11 (status of public rights of way constructed or improved) of this Order must—

(a) be completed to the reasonable satisfaction of the highway authority; and

(b) unless otherwise agreed with the highway authority, be maintained by and at the expense of:

(i) the undertaker, for a period of 12 months from the date the construction, improvement or alteration of that street is completed; and

(ii) by the highway authority, from the expiry of that 12 month period.

(2) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(3) For the purposes of a defence under paragraph (2), a court must in particular have regard to the following matters—

(a) the character of the street including the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary prohibition or restriction on use of streets and public rights of way

13.—(1) The undertaker, during and for the purposes of constructing or maintaining the authorised development, may temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street or public right of way;

(b) authorise the use of motor vehicles on classes of public rights of way where, notwithstanding the provisions of this article, there is otherwise no public right to use motor vehicles; and

(c) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, prohibition, restriction, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

(a) the streets specified in column 2 of the table in Part 2 (temporary prohibition or restriction of the use of streets) of Schedule 6 (streets and public rights of way);

(b) the public rights of way specified in column 2 of the table in Part 3 (temporary prohibition or restriction of the use of public rights of way) of Schedule 6 to the extent specified in column 3 of that table; and

(c) the public rights of way specified in column 2 of the table in Part 4 (temporary management of public rights of way) of Schedule 6 to the extent specified in column 3 of that table.

(4) The undertaker must not temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

(a) any public right of way specified in paragraph (3) without first consulting the street authority; and

(b) any other public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Without prejudice to the scope of paragraph (1), the undertaker may use any public right of way which has been temporarily closed under the powers conferred by this article and within the Order limits as a temporary working site.

(7) In this article expressions used in this article and in the 1984 Act have the same meaning.

(8) Nothing in this article prevents the undertaker from temporarily closing, prohibiting the use of, authorising the use of, restricting the use of, altering or diverting a public right of way under this article more than once.

Claimed public right of way

14.—(1) Subject to the provisions of this article, the undertaker may for the purposes of the authorised development stop up, to an extent that does not exceed the limits of the land shown by the brown line between points PC-A1 and PC-A2 on sheets 12 and 13 of the streets, rights of way and access plans, any street situated in whole or in part on the land shown by the brown line on the streets, rights of way and access plans whether or not that street was in existence or recognised on the definitive map on the date this Order is made.

(2) Where a street is stopped up under paragraph (1)—

(a) subject to paragraph (3), all public rights of way over or along a street so stopped up are extinguished;

(b) subject to paragraph (4), private rights over or along a street so stopped up are extinguished or cease to have effect; and

(c) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is bounded on both sides by land owned by the undertaker.

(3) The extinguishment of public rights of way referred to in paragraph (2)(a) will come into effect seven working days after the undertaker serves a notice on the surveying authority giving details of the extent of the stopping up and including a plan showing the extent by which a street referred to in paragraph (1) has been stopped up.

(4) The power conferred by paragraph (1) must not be exercised by the undertaker earlier than the date on which the undertaker has acquired an interest in the land comprised in the extent of the street to be stopped up and the provisions of article 25 (private rights) apply to the extinguishment or cessation of any such private rights.

(5) A notice referred to in paragraph (3) is deemed to be a legal event for the purposes of section 53(3)(a)(i)(a) of the Wildlife and Countryside Act 1981.

(6) This article is subject to article 34 (apparatus and rights of statutory undertakers in closed or restricted streets).

(7) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) In this article—

(a) "definitive map" has the meaning given to it by section 53(1) of the Wildlife and Countryside Act 1981;

(b) "surveying authority" has the meaning given to it by section 66(1)(b) (interpretation of Part III) of the Wildlife and Countryside Act 1981; and

(c) section 159 of the 2008 Act applies to this article.

Access to works

15.—(1) The undertaker may, for the purposes of the authorised development—

(a) form and lay out the permanent means of access, or improve existing means of access, in the locations specified in Schedule 7 (access to works); and

(b) with the prior approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The undertaker must restore any access that has been temporarily created under this Order to the reasonable satisfaction of the street authority.

Agreements with street authorities

16.—(1) A street authority and the undertaker may enter into agreements with respect to—

(a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(b) any prohibition, restriction, alteration or diversion of a street authorised by this Order;

(c) the undertaking in the street of any of the works referred to in article 8 (street works) and article 12 (construction and maintenance of new and altered streets); or

(d) the adoption by a street authority which is the highway authority of works—

(i) undertaken on a street which is existing public maintainable highway; or

(ii) which the undertaker and highway authority agree to be adopted as public maintainable highway.

(2) If such an agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph (1)—

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) specify a reasonable time for the completion of the works; and

(c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic regulation measures

17.—(1) Subject to the provisions of this article the undertaker may at any time, for the purposes of, or in connection with, the authorised development—

(a) make provision in respect of those lengths of road specified in column 2 of Part 1 (temporary speed limits) of Schedule 8 (traffic regulation measures) imposing the temporary speed limit mentioned in column 3 of that Part of that Schedule;

(b) make provision in respect of those lengths of road specified in column 2 of Part 2 (temporary road closures) of Schedule 8 temporarily closing that road to the classes of road user specified in column 3 of that Part of that Schedule;

(c) temporarily place traffic signs and signals in the extents of the road specified in column 2 of Part 3 (temporary traffic signals) of Schedule 8 and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(**a**); and

(d) make provision in respect of those lengths of road specified in column 2 of Part 4 (permanent speed limits) of Schedule 8 imposing the permanent speed limit mentioned in column 3 of that Part of that Schedule.

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may make temporary provision for the purposes of the construction or decommissioning of the authorised development—

(a) as to the speed at which vehicles may proceed along any road;

(b) permitting, prohibiting or restricting the stopping, waiting, loading or unloading of vehicles on any road;

(c) as to the prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;

(d) permitting, prohibiting or restricting the use by vehicular traffic or non-vehicular traffic of any road; and

(e) suspending or amending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) Subject to the provisions of this article the undertaker may at any time, in the interests of safety and for the purposes of, or in connection with, the construction or decommissioning of the authorised development, temporarily place traffic signs and signals in the extents of road over which temporary provision has been made under paragraph (2) and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016.

(4) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(**b**) when in accordance with regulation 3(5) of those regulations.

(5) Before exercising the power conferred by paragraph (2) the undertaker must—

(a) consult with the chief officer of police in whose area the road is situated; and

(b) obtain the written consent of the traffic authority.

(6) The undertaker must not exercise the powers in paragraphs (1), (2) or (3) unless it has—

(a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) not less than 7 days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspaper circulating in the area in which any road to which the provision relates is situated.

(**a**) S.I. 2016/362.
(**b**) S.I. 2011/935.

(7) Any provision made under the powers conferred by paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) or (2).

(8) Any provision made by the undertaker under paragraphs (1), (2) or (3)—

(a) must be made by written instrument in such form as the undertaker considers appropriate;

(b) has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify specific savings and exemptions to which the provision is subject; and

(c) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(**a**) (road traffic contraventions subject to civil enforcement).

PART 4

SUPPLEMENTAL POWERS

Discharge of water

18.—(1) Subject to paragraphs (3), (4) and (8) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, maintenance or decommissioning of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**b**).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs whose consent may be given subject to terms and conditions as that person may reasonably impose.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) Where the undertaker discharges water into, or makes any opening into, a watercourse, public sewer or drain belonging to or under the control of a drainage authority (as defined in Part 3 of Schedule 15 (protective provisions)), the provisions of Part 3 of Schedule 15 apply in substitution for the provisions of paragraphs (3) and (4).

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters requires a licence pursuant to the Environmental Permitting (England and Wales) Regulations 2016(**c**).

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

---

(**a**) 2004 c. 18.
(**b**) 1991 c. 56.
(**c**) S.I. 2016/1154.

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(**a**) have the same meaning as in that Act.

Protective works to buildings

19.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order land as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the construction of any part of the authorised development in the vicinity of the building; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the date of final commissioning.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building, the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the building and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to a building;

(b) a right under paragraph (3) to enter a building and land within its curtilage;

(c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 43 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

(a) protective works are carried out under this article to a building; and

(b) within the period of five years beginning with the date of final commissioning of the relevant part of the authorised development it appears protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development, the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(**a**) 1991 c. 57.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2)(compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "protective works" in relation to a building means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or use of the authorised development; and

(b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or use of the authorised development.

Authority to survey and investigate the land

20.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order land or enter on any land which may be affected by the authorised development or enter on any land upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, pull out tests or trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required before entering the land, produce written evidence of their authority to do so; and

(b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

(a) in land located within the highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Removal of human remains

21.—(1) Before the undertaker constructs any part of the authorised development or carries out works which will or may disturb any human remains in the Order limits it must remove those human remains from the Order limits, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order limits the undertaker must give notice of the intended removal, describing the Order limits and stating the general effect of the following provisions of this article, by—

(a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and

(b) displaying a notice in a conspicuous place on or near the Order limits.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the Order limits may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

(a) removed and reinterred in any burial ground or cemetery in which burials may legally take place; or

(b) removed to, and cremated in, any crematorium, and that person must, as soon as reasonably practicable after such reinterment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question cannot be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and reinterring or cremating the remains of any deceased person under this article.

(8) If—

(a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order limits; or

(b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or

(c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or

(d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be reinterred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be reinterred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and reinterment or cremation of the remains.

(10) On the reinterment or cremation of any remains under this article—

(a) a certificate of reinterment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated; and

(b) a copy of the certificate of reinterment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(**a**) is not to apply to a removal carried out in accordance with this article.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

22.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or as is incidental, to it.

(2) This article is subject to article 23 (time limit for exercise of authority to possess land temporarily or to acquire land compulsorily), article 24(2) (compulsory acquisition of rights), article 31 (temporary use of land for constructing the authorised development) and article 49 (crown rights).

Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily

23.—(1) The applicable period for the purposes of section 4 of the 1965 Act (time limit for giving notice to treat) and section 5A of the 1981 Act (time limit for general vesting declaration) is five years beginning on the day on which this Order is made.

(2) No notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1981) of the 1965 Act and no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 26 (application of the 1981 Act) after the end of the applicable period, including any extension to the applicable period pursuant to those Acts.

(3) The authority conferred by article 31 (temporary use of land for constructing the authorised development) must not be used after the end of the applicable period referred to in paragraph (1), save that if an application is made under section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the applicable period is to be extended by—

(a) a period equivalent to the period beginning on the day the application is made and ending on the day it is withdrawn or finally determined; or

(b) if shorter, one year.

(4) An application is not finally determined for the purposes of paragraph (3)(a) if an appeal in respect of the application—

(a) could be brought (ignoring any possibility of an appeal out of time with permission); or

(b) has been made and not withdrawn or finally determined.

(**a**) 1857 c. 81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014 No. 1, section 2 (January 1, 2015: substitution has effect subject to transitional and saving provisions specified in S.I. 2014/2077, Schedule 1, paragraphs 1 and 2).

(5) Nothing in paragraph (3) prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

24.—(1) Subject to paragraph (2) and article 31 (temporary use of land for constructing the authorised development), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 22 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 25 (private rights) and article 33 (statutory undertakers), in the case of the Order land specified in column 1 of the table in Schedule 9 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights and benefit of restrictive covenants over that land and the creation and acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column 2 of the table in that Schedule.

(3) Subject to section 8 (other provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 5(8) of Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)), where the undertaker creates or acquires an existing right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 10 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Nothing in this article prevents the undertaker from acquiring rights more than once in relation to any land that the undertaker acquires rights in under this article.

(8) This article is subject to article 49 (crown rights).

Private rights

25.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished on the earliest of—

(a) the date of acquisition of the land or of the right or of the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement or through the grant of a lease of the land by agreement; or

(b) the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 24 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant on the earliest of—

(a) the date of the acquisition of the right or imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of a lease of the land by agreement); or

(b) the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act in pursuance of the right.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under article 31 (temporary use of land for constructing the authorised development) or article 32 (temporary use of land for maintaining the authorised development) are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 33 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether that title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any right of way, trust, incident, restrictive covenant, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the 1981 Act

26.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of the Act), for subsection 2 substitute—

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.".

(4) In section 5(2) (earliest date for execution of declaration) omit the words from "and this subsection" to the end.

(5) In section 5B(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

(6) In section 6 (notices after extension of declaration), in subsection (1)(b) for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

(7) In section 7 (constructive notice to treat), in subsection (1)(a) omit the words "(as modified by section 4 of the Acquisition of Land Act 1981)".

(8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

"(2) But see article 27(3) (acquisition of subsoil only) of the Springwell Solar Farm Order 202*, which excludes the acquisition of subsoil only from this Schedule.".

(9) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 29 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil only

27.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph 22(1) of article 22 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land, the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A)(**a**) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Power to override easements and other rights

28.—(1) Any authorised activity which takes place on land within the Order land (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract.

(3) Where an interest, right or restriction is overridden by paragraph (1), compensation—

(a) is payable under section 7 (measure of compensation in case of severance) or section 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—

(**a**) Section 153(4A) was inserted by section 200(1) and (2) of the Housing and Planning Act 2016.

(i) the compensation is to be estimated in connection with a purchase under that Act; or

(ii) the injury arises from the execution of works on or use of land acquired under that Act.

(4) Where a person deriving title under the undertaker by whom the land in question was acquired—

(a) is liable to pay compensation by virtue of paragraph (3); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(5) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1).

(6) In this article "authorised activity" means—

(a) the erection, construction or maintenance of any part of the authorised development;

(b) the exercise of any power authorised by the Order; or

(c) the use of any land within the Order land (including the temporary use of land).

Modification of Part 1 of the Compulsory Purchase Act 1965

29.—(1) Part 1 of the 1965 Act (compulsory acquisition under Acquisition of Land Act 1946), as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008".

(3) In section 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

(4) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 27 (acquisition of subsoil only) of the Springwell Solar Farm Order 202*, which excludes the acquisition of subsoil only from this Schedule"; and

(b) after paragraph 29 insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 19 (protective works to buildings), article 31 (temporary use of land for constructing the authorised development) or article 32 (temporary use of land for maintaining the authorised development) of the Springwell Solar Farm Order 202*.".

Rights under or over streets

30.—(1) The undertaker may enter on, appropriate and use so much of the subsoil of or airspace over any street within the Order land as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for constructing the authorised development

31.—(1) The undertaker may, in connection with the construction of the authorised development but subject to article 23 (time limit for exercise of authority to possess land temporarily or to acquire land compulsorily)—

(a) enter on and take temporary possession of—

(i) so much of the land specified in column 1 of the table in Schedule 11 (land of which temporary possession may be taken) for the purpose specified in relation to the land in column 2 of that table; and

(ii) any other Order land in respect of which no notice of entry has been served under section 11(**a**) of the 1965 Act (powers of entry) and no declaration has been made under section 4(**b**) of the 1981 Act (execution of declaration);

(b) remove any buildings, structures, agricultural plant and apparatus, electric lines, drainage, fences, debris and vegetation from that land;

(c) construct temporary works (including means of access), haul roads, security fencing, bridges, structures and buildings on that land;

(d) use the land for the purposes of a temporary working site with access to the working site in connection with the authorised development;

(e) construct any works on that land as are mentioned in Schedule 1 (authorised development); and

(f) carry out mitigation works on that land required under the requirements in Schedule 2 (requirements).

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(**a**) Section 11 was amended by section 34(1) of, and paragraph 14(3) of Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186, 187 and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 and S.I. 2009/1307.

(**b**) Section 4 as amended by section 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(4) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of the land referred to in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken; or

(b) in the case of land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession the undertaker must, before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, agricultural plant or apparatus, electric line, debris, drain or vegetation removed under this article;

(b) remove any drainage works installed by the undertaker under this article;

(c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 4 (streets subject to street works), Schedule 5 (alteration of streets) or Schedule 7 (access to works);

(d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments;

(e) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 2;

(f) remove any protective works which have been placed on the land under article 19 (protective work to buildings); or

(g) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Subject to article 50 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) The undertaker must not compulsorily acquire, acquire new rights over or impose restrictive covenants over, the land referred to in paragraph (1)(a)(i) under this Order.

(11) Nothing in this article prevents the undertaker from—

(a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Schedule 9 (land in which only new rights etc. may be acquired); or

(b) acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 27 (acquisition of subsoil only) or any part of the subsoil of or airspace over that land under article 30 (rights under or over streets).

(12) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land that the undertaker takes temporary possession of under this article.

Temporary use of land for maintaining the authorised development

32.—(1) The undertaker may, at any time during the maintenance period relating to any part of the authorised development—

(a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of any power conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Subject to article 50 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article "the maintenance period" means—

(a) the period of five years beginning with the date of final commissioning of the part of the authorised development for which temporary possession is required under this article; or

(b) except where maintenance relates to landscaping, such period as is set out in the landscape and ecology management plan which is approved by the relevant planning authority pursuant to requirement 8 (landscape and ecology management plan) in Schedule 2 (requirements), beginning with the date on which that part of the landscaping is completed.

Statutory undertakers

33. Subject to the provisions of Schedule 15 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land; and

(b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in closed or restricted streets

34. Where a street is closed, altered or diverted or its use is temporarily prohibited or restricted under article 8 (street works), article 10 (power to alter layout, etc., of streets), article 12 (construction and maintenance of new and altered streets) or article 13 (temporary prohibition or restriction on use of streets and public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 15 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

35.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 33 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 33, any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

"public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(**a**); and

"public utility undertaker" has the same meaning as in the 1980 Act.

(**a**) 2003 c. 21.

PART 6

MISCELLANEOUS AND GENERAL

Benefit of the Order

36. Subject to article 37 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker save for the grid connection works in relation to which the provisions of this Order have effect for the benefit of the undertaker and NGET.

Consent to transfer the benefit of the Order

37.—(1) Subject to paragraph (3), the undertaker may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made references in this Order to the undertaker, except in paragraph (8), are to include references to the transferee or lessee.

(3) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—

(a) the transferee or lessee is NGET;

(b) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply etc.) of the 1989 Act; or

(c) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

(i) no such claims have been made;

(ii) any such claim has been made and has been compromised or withdrawn;

(iii) compensation has been paid in full and final settlement of any such claim;

(iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or

(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.

(4) Where the consent of the Secretary of State is not required, the undertaker must notify the Secretary of State, the relevant planning authorities in writing before transferring or granting a benefit referred to in paragraph (1).

(5) The notification referred to in paragraph (4) must state—

(a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;

(b) subject to paragraph (6), the date on which the transfer will take effect;

(c) the powers to be transferred or granted;

(d) pursuant to paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

(e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(6) The date specified under paragraph (5)(b) must not be earlier than the expiry of 14 working days from the date of the receipt of the notification.

(7) The notification given must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notification.

(8) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—

(a) the benefit transferred or granted ("the transferred benefit") must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;

(b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and

(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Application of landlord and tenant law

38.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement, so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

39. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land) of the 1990 Act.

Felling or lopping of trees and removal of hedgerows

40.—(1) Subject to paragraph (2) and article 41 (trees subject to tree preservation orders) the undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

(a) obstructing or interfering with the construction, maintenance, operation or decommissioning of the authorised development or any apparatus used in connection with the authorised development;

(b) constituting a danger to persons using the authorised development; or

(c) obstructing or interfering with the passage of construction vehicles to the extent necessary for the purposes of construction or decommissioning of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised development or in connection with the authorised development and subject to paragraph (2) remove the hedgerows specified in column 2 of the table in Part 1 (removal of hedgerows) and column 2 of the table in Part 2 (removal of important hedgerows) of Schedule 12 (hedgerows to be removed) to the extent set out in the landscape and ecology management plan approved pursuant to requirement 8 (landscape and ecology management plan) in Schedule 2 (requirements).

(5) The undertaker may not pursuant to paragraphs (1) and (4) fell or lop a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior consent of the highway authority.

(6) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**a**).

Trees subject to tree preservation orders

41.—(1) The undertaker may, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with the construction, maintenance, operation or decommissioning of the authorised development or any apparatus used in connection with the authorised development, fell or lop or cut back the roots of any tree that is subject to a tree preservation order that is within or overhanging land within the Order limits and the relevant tree preservation order was made after November 2024.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Certification of plans and documents, etc.

42.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in the table at Schedule 13 (documents and plans to be certified) for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

43.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules set out in Schedule 14

(**a**) S.I. 1997/1160.

(arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Protective Provisions

44. Schedule 15 (protective provisions) has effect.

Service of notices

45.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at that time of service.

(4) Where for the purpose of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by the description of "owner", or as the case may be "occupier" of the land (describing it); and

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or

(**a**) 1978 c. 30.

any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Procedure in relation to certain approvals etc.

46.—(1) Where an application is made to or request is made of, a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed.

(3) Schedule 16 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

(4) Save for applications made pursuant to Schedule 16 and where stated to the contrary if, within ten weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) after the application or request has been submitted to a consenting authority it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4).

(6) Schedule 16 does not apply in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 15 (protective provisions) or any dispute under article 19(6) (protective works to buildings) to which paragraph (4) applies.

(7) In this article "consenting authority" means the relevant planning authority, highway authority, traffic authority, street authority, the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 15.

Guarantees in respect of payment of compensation

47.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any part of the Order limits unless it has first put in place either—

(a) a guarantee, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order limits; or

(b) an alternative form of security, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order limits.

(2) The provisions are—

(a) article 22 (compulsory acquisition of land);

(b) article 24 (compulsory acquisition of rights);

(c) article 25 (private rights);

(d) article 30 (rights under or over streets);

(e) article 31 (temporary use of land for constructing the authorised development);

(f) article 32 (temporary use of land for maintaining the authorised development); and

(g) article 33 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Compulsory acquisition of land - incorporation of the mineral code

48. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated into this Order subject to the modifications that—

(a) for "the acquiring authority" substitute "the undertaker";

(b) for the "undertaking" substitute "authorised development"; and

(c) paragraph 8(3) is not incorporated.

Crown rights

49.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

No double recovery

50. Compensation is not payable in respect of the same matter both under this Order and under any enactment, any contract or any rule of law, or under two or more different provisions of this Order.

(**a**) 1981 c. 67.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Signature

Address

Date

Title

Department for Energy Security and Net Zero

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

1. In this Schedule—

"balance of solar system (BoSS) plant" means inverters, transformers and switch gear and would be either—

(a) centralised inverters, transformers and switch gear placed on adjustable legs or metal skids with each component either—

(i) "independent outdoor equipment" located outside, on concrete pads, concrete columns or foundation slab, or compacted hardcore material for each of the inverters and transformers and switch gear; or

(ii) "inverter transformer station" housed together within a container sitting on a concrete foundation slab or compacted hardcore material; or

(b) string inverters and combiner boxes attached either to mounting structures or a ground mounted frame, wired to or connected to switch gear and transformers on a concrete foundation slab or compacted hardcore material;

"community growing area" means an area providing restricted public access within the Order limits as shown in the outline landscape and ecology management plan;

"electrical cables" means—

(c) cables of differing types and voltages installed for the purposes of conducting electricity, auxiliary cables, cables connecting to direct current (DC) boxes, earthing cables and optical fibre cables; and

(d) works associated with cable laying including jointing pits, hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protection, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, send and receive pits for horizontal directional drilling, trenching, lighting, earthing rods, and a pit or container to capture fluids associated with drilling;

"energy storage" means equipment used for the storage of electrical energy;

"inverter" means electrical equipment required to convert direct current power to alternating current;

"main collector compound" connects Work Nos. 1, 3 and 4 to Work No. 2 to enable collection of electricity and transmission of electricity from and to Work No. 2, and comprises switch gear and transformers in either indoor units or outdoor fenced area and control buildings housing monitoring equipment, storage, security and welfare facilities;

"mounting structure" means a frame or rack made of galvanised steel, anodised aluminium or other material designed to support the solar panels and mounted on piles driven into the ground, helical piles or pillars fixed to a concrete foundation;

"permissive paths" means new paths providing restricted public access within the Order limits along the approximate routes shown on the outline landscape and ecology management plan;

"satellite collector compound" means a compound with electrical equipment required to collect electricity from the balance of solar system (BoSS) plant in Work No.1 and transmits it to Work No. 2, sitting on concrete pads or concrete columns;

"solar panel" means a solar photovoltaic panel or module designed to convert solar irradiance to electrical energy;

"substation" means a substation containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation;

"switch gear" means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment; and

"transformer" means a structure serving to transform electricity to a higher voltage.

Authorised development

2. In the District of North Kesteven and in the County of Lincolnshire a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115(1)(b) of the 2008 Act.

The nationally significant infrastructure project comprises one generating station with a gross electrical output capacity of over 50 megawatts comprising all or any of the work numbers in this Schedule or any part of any work number in this Schedule—

Work No. 1 – a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts, including—

(a) Solar PV modules fitted to mounting structures;

(b) balance of solar system (BoSS) plant.

and associated development within the meaning of s115(2) of the 2008 Act comprising—

Work No. 2 – works in connection with an onsite substation compound including—

(c) **Work No. 2A** – substation works comprising—

(i) substation (excluding the transformers forming part of the substation), switch room buildings and ancillary equipment including harmonic filters and reactive power units;

(ii) main collector compound;

(iii) control building housing offices, storage, welfare facilities, parking areas and access;

(iv) workshop, store and ancillary structures; and

(v) monitoring and control systems for this Work No. 2 and Work No. 1 housed within the control building in Work No. 2A(iii) or located separately in their own containers or control rooms.

(d) **Work No. 2B** – up to seven transformers that form part of the substation for Work No. 2A and associated barriers required for fire safety and noise mitigation.

Work No. 3 – works in connection with satellite collector compounds, including—

(e) switch gear;

(f) transformers; and

(g) control buildings housing monitoring equipment, storage, securing and welfare facilities.

Work No. 4 – an energy storage facility comprising a battery energy storage system compound including—

(h) battery energy storage system (BESS) units each comprising an enclosure for BESS electro-chemical components and associated equipment, joined or close coupled to each other, mounted on a reinforced concrete foundation slab, compacted hardcore or concrete piles;

(i) transformers and associated bunding;

(j) inverters, switch gear, power conversion systems (PCS) and ancillary equipment;

(k) containers or enclosures housing all or any of Work Nos. 4(a), (b) and (c) and ancillary equipment;

(l) monitoring and control systems housed within the containers or enclosures comprised in Work Nos. 4(a) or (d) or located separately in its own container or enclosure;

(m) heating, ventilation and air conditioning (HVAC) systems either housed on or within each of the containers or enclosures comprised in Work Nos. 4(a), (d) and (e), attached to the side or top of each of the containers or enclosures, or located separate to but near to each of the containers or enclosures;

(n) fire safety infrastructure including water storage tanks and a shut-off valve for containment of fire water and hard standing to accommodate emergency vehicles;

(o) containers or similar structures to house spare parts and materials required for the day to day operation of the BESS facility;

(p) acoustic fencing; and

(q) ancillary buildings including control room, office, welfare, storage, workshop and metering.

Work No. 5 – works to lay high voltage electrical cables and access for the electrical cables, including—

(r) works to lay electrical cables including 400 kilovolt cables connecting Work No. 2 into the National Grid Navenby Substation; and

(s) laying down of internal access tracks, ramps, means of access, footways, including the laying and construction of drainage infrastructure, signage and information boards.

Work No. 6 – works to lay electrical cables up to 132 kilovolt connecting Work Nos. 1, 2, 3, 4 and 5.

Work No. 7 – temporary construction and decommissioning compounds in connection with Work Nos. 1 to 6 including—

(t) **Work No. 7A** – up to three primary temporary construction and decommissioning areas—

(i) areas of hardstanding;

(ii) car parking;

(iii) site and welfare offices, canteens and workshops;

(iv) area to store materials and equipment;

(v) storage and waste skips;

(vi) area for download and turning;

(vii) security infrastructure, including cameras, perimeter fencing and lighting;

(viii) site drainage and waste management infrastructure (including sewerage); and

(ix) electricity, water, waste water and telecommunications connections.

(u) **Work No. 7B** – up to five secondary temporary construction and decommissioning areas—

(i) areas of hardstanding;

(ii) car parking;

(iii) site and welfare offices, canteens and workshops;

(iv) area to store materials and equipment;

(v) storage and waste skips;

(vi) area for download and turning;

(vii) security infrastructure, including cameras, perimeter fencing and lighting;

(viii) site drainage and waste management infrastructure (including sewerage); and

(ix) electricity, water, waste water and telecommunications connections.

Work No. 8 – works to facilitate access to Work Nos. 1 to 7 and 9 including—

(v) creation of accesses from the public highway;

(w) creation of visibility splays;

(x) works to alter the layout of any street or highway;

(y) works to widen and surface the streets; and

(z) making and maintaining passing places.

Work No. 9 – works to create, enhance and maintain green infrastructure and mitigation, including—

(aa) landscape and biodiversity mitigation and enhancement areas;

(bb) habitat creation and management, including earthworks, landscaping, means of enclosure, and the laying and construction of drainage infrastructure;

(cc) laying down of permissive paths, signage and information boards;

(dd) improvements to existing and laying down of new public rights of way, signage and information boards;

(ee) earth bund;

(ff) screening; and

(gg) community growing area.

In connection with and in addition to Work Nos. 1 to 9 further associated development within the Order limits including—

(hh) fencing, gates, boundary treatment and other means of enclosure;

(ii) bunds, embankments, trenching and swales;

(jj) works to the existing irrigation system and works to alter the position and extent of such irrigation system;

(kk) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage networks;

(ll) electrical, gas, water, foul water drainage and telecommunications infrastructure connections, diversions and works to, and works to alter the position of, such services and utilities connections;

(mm) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;

(nn) works for the provision of security and monitoring measures such as CCTV columns, security cabins, lighting columns and lighting, cameras, lightning protection masts and weather stations;

(oo) improvement, maintenance, repair and use of existing streets, private tracks and access roads;

(pp) laying down, maintenance and repair of new internal access tracks, ramps, means of access, footpaths, permissive paths, cycle routes and roads, crossings of drainage ditches and watercourses, including signage and information boards;

(qq) temporary footpath diversions and closures;

(rr) landscaping and biodiversity mitigation and enhancement measures including planting;

(ss) tunnelling, boring and drilling works;

(tt) earthworks, site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land;

(uu) other works to mitigate any adverse effects of the construction, maintenance, operation or decommissioning of the authorised development,

and further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the authorised development but only within the Order limits and insofar as they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2

Article 3

REQUIREMENTS

1. In this Schedule—

"relevant planning authority" means North Kesteven District Council, except for the following requirements where it shall mean Lincolnshire County Council—

(i) Requirement 7 (battery safety management);

(ii) Requirement 10 (drainage);

(iii) Requirement 11 (archaeology);

(iv) Requirement 14 (construction traffic management plan); and

(v) Requirement 17 (public right of way and permissive path management plan).

Commencement of the authorised development

2. The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

Phasing of the authorised development and date of final commissioning

3.—(1) The authorised development must not be commenced until a written scheme setting out the phases of construction of the authorised development has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council.

(2) The scheme submitted pursuant to sub paragraph (1) must include a timetable for the construction of the phases of the authorised development and a plan identifying the phasing areas.

(3) The scheme submitted and approved pursuant to sub-paragraph (1) must be implemented as approved.

(4) Nothing shall prevent the undertaker and the relevant planning authority agreeing from time to time to amend the written scheme setting out the proposed phases of construction.

(5) The agreed written scheme may contain flexibility and optioneering for different proposed phases of construction provided that the undertaker notifies the relevant planning authority of the final intended phasing prior to commencement.

(6) Notice of the date of final commissioning with respect to each phase of Work No.1 must be given to the relevant planning authority within 15 working days of the date of final commissioning for that phase.

Requirement for written approval

4.—(1) With respect to the documents certified under article 42 (certification of plans and documents, etc) and any plans, details or schemes which have been approved pursuant to any requirement (together the "Approved Documents, Plans, Details or Schemes"), the undertaker may submit to the relevant planning authority for approval any amendments to any of the Approved Documents, Plans, Details or Schemes and, following approval by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council (where Lincolnshire County Council was the relevant planning authority on the Approved Documents, Plans, Details or Schemes sought to be amended), the relevant Approved Documents, Plans, Details or Schemes is to be taken to include the amendments as so approved pursuant to this paragraph.

(2) Approval under sub-paragraph (1) for the amendments to any of the Approved Documents, Plans, Details or Schemes must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is

unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Detailed design approval

5.—(1) No part of Work Nos. 1 to 6 and 9 may commence until details of—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external appearance;

(e) hard surfacing materials;

(f) vehicular and pedestrian access, parking and circulation areas; and

(g) refuse or other storage units, signs, CCTV columns and lighting,

relating to that part have been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council as local highway authority in relation to sub-paragraph (f).

(2) The details submitted must—

(a) accord with the design commitments and project parameters;

(b) accord with any details approved under requirements 7 (battery safety management), 8 (landscape and ecology management plan), 9 (fencing and other means of enclosure), 10 (drainage), 11 (archaeology), 15 (operational noise) and 17 (public right of way and permissive path management plan); and

(c) demonstrate how they have taken account of the results of any archaeological evaluations carried out pursuant to requirement 11.

(3) The authorised development must be carried out in accordance with the approved details.

Community liaison group

6.—(1) Prior to the commencement of the authorised development the undertaker must submit to the relevant planning authority for approval the terms of reference for a community liaison group whose aim is to facilitate liaison between representatives of people living in the vicinity of the Order limits and other relevant organisations in relation to the construction of the authorised development.

(2) The community liaison group must be established prior to commencement of the authorised development and must be administered by the undertaker, and operated, in accordance with the approved terms of reference.

(3) The community liaison group is to continue to meet until the date of final commissioning of the final part of the authorised development unless otherwise agreed with the relevant planning authority.

Battery safety management

7.—(1) Work No. 4 must not commence until a battery safety management plan has been submitted to and approved by the relevant planning authority.

(2) The battery safety management plan must be substantially in accordance with the outline battery safety management plan.

(3) The relevant planning authority must consult with the Lincolnshire Fire and Rescue Service, North Kesteven District Council and the Environment Agency before determining an application for approval of the battery safety management plan.

(4) The battery safety management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Landscape and ecology management plan

8.—(1) No part of the authorised development may commence until a written landscape and ecology management plan has been submitted to and approved by the relevant planning authority for that part, in consultation with Lincolnshire County Council, the Environment Agency, Natural England and the Ministry of Defence.

(2) The landscape and ecology management plan must be substantially in accordance with the outline landscape and ecology management plan and for that part of the authorised development to which it relates must include details of how the plan proposals will contribute to the achievement of a minimum 27.16% biodiversity net gain for area-based habitat units, 19.06% biodiversity net gain for hedgerow units and 13.59% biodiversity net gain for watercourse units for all of the authorised development during the operation of the authorised development, using the Department for Environment, Food and Rural Affairs' 4.0 metric to calculate those percentages (or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body).

(3) The landscape and ecology management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

(4) For the purposes of sub-paragraph (1), "commence" includes part (h) (site clearance (including vegetation removal, demolition of existing structures or buildings) and (i) (Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)) of the permitted preliminary works.

Fencing and other means of enclosure

9.—(1) No part of the authorised development may commence until details of all proposed temporary fences, walls or other means of enclosure, including those set out in the construction environmental management plan, for that part have been submitted to and approved by the relevant planning authority.

(2) No part of the authorised development may commence until details of all permanent fences, walls or other means of enclosure for that part have been submitted to and approved by the relevant planning authority.

(3) For the purposes of sub-paragraph (1), "commence" includes any permitted preliminary works.

(4) The details provided under sub-paragraph (2) must accord with the relevant design commitments and project parameters.

(5) Any construction site must remain securely fenced in accordance with the approved details under sub-paragraph (1) at all times during construction of the authorised development.

(6) Any temporary fencing must be removed on completion of the part of construction of the authorised development for which it was used.

(7) Any approved permanent fencing for a part of the authorised development must be completed before the date of final commissioning in respect of that part and properly maintained for the operational lifetime of the part of the authorised development.

Drainage

10.—(1) No part of the authorised development may commence until written details of the drainage strategy for that part have been submitted to and approved by the relevant planning authority.

(2) The written details under sub-paragraph (1) must be substantially in accordance with the outline drainage strategy.

(3) Prior to approving the drainage strategy pursuant to sub-paragraph (1) where the plan relates to drainage in the aerodrome safeguarding zone, the relevant planning authority will consult the Ministry of Defence.

(4) Prior to approving the drainage strategy pursuant to sub-paragraph (1), where the plan relates to foul water drainage, the relevant planning authority will consult the Environment Agency.

(5) Before approving the written details under sub-paragraph (1) the relevant planning authority must consult with Anglian Water Services Limited or its successor in function as the relevant water undertaker.

(6) Any approved scheme must be implemented as approved and maintained throughout the construction and operation of the authorised development.

Archaeology

11.—(1) No part of the authorised development may commence until for that part:

(a) a written scheme of investigation for that part has been submitted to and approved by the relevant planning authority in consultation with Historic England;

(b) any archaeological evaluation as required pursuant to the approved written scheme of investigation to inform the approach to mitigation has been carried out in accordance with the approved written scheme of investigation; and

(c) updates are made to the draft archaeological mitigation strategy to account for the results of the additional archaeological evaluation carried out and such updated draft archaeological mitigation strategy has been submitted to and approved by the relevant planning authority in consultation with Historic England (at which time, such document shall become the archaeological mitigation strategy).

(2) The written scheme of investigation under sub-paragraph (1)(a) must be substantially in accordance with the outline written scheme of investigation.

(3) For the purposes of sub-paragraph (1), "commence" includes parts (a) to (h) inclusive of the permitted preliminary works.

(4) Any approved written scheme of investigation or archaeological mitigation strategy must be implemented as approved and maintained throughout the construction of the authorised development and any archaeological works or watching brief must be carried out in accordance with the approved scheme.

Construction environmental management plan

12.—(1) No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council, as the local highway authority and waste planning authority, the Environment Agency and the Ministry of Defence.

(2) The construction environmental management plan must be substantially in accordance with the outline construction environmental management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan.

(4) For the purposes of sub-paragraph (1), "commence" includes part (d) (remedial works in respect of any contamination or other adverse ground conditions) and (i) (Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)) of the permitted preliminary works.

Operational environmental management plan

13.—(1) Prior to the date of final commissioning for any part of the authorised development, an operational environmental management plan for that part must be submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County

Council, as the local highway authority and waste planning authority, the Environment Agency and the Ministry of Defence.

(2) The operational environmental management plan must be substantially in accordance with the outline operational environmental management plan.

(3) The operational environmental management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Construction traffic management plan

14.—(1) No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning authority.

(2) The construction traffic management plan must be substantially in accordance with the outline construction traffic management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction traffic management plan.

(4) For the purposes of sub-paragraph (1), "commence" includes part (i) (Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)) of the permitted preliminary works.

Operational noise

15.—(1) No part of Work Nos. 1 to 4 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated mitigation to ensure the operational noise rating levels as set out within Section 12.4.43 of Chapter 12 in the environmental statement are complied with for that part has been submitted to and approved by the relevant planning authority.

(2) The design as described in the operational noise assessment must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Employment, skills and supply chain

16.—(1) No part of the authorised development may commence until an employment, skills and supply chain plan in relation to that part has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council.

(2) The employment, skills and supply chain plan must be substantially in accordance with the outline employment, skills and supply chain plan.

(3) The employment, skills and supply chain plan must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that part of the authorised development to which the plan relates and the means for publicising such opportunities.

(4) The employment, skills and supply chain plan must be implemented as approved and maintained throughout the construction, operation and decommissioning of the relevant part of the authorised development to which the plan relates.

Public right of way and permissive path management plan

17.—(1) No part of the authorised development may commence until details of the layout, alignment and specification of the—

(a) public rights of way to be constructed or improved pursuant to article 11 (status of public rights of way constructed or improved); and

(b) permissive paths to be created as identified on the streets, rights of way and access plans, in relation to that part have been submitted to and approved by the relevant planning authority.

(2) The details of the public rights of way and permissive paths must accord with—

(a) the streets, rights of way and access plans; and

(b) the design commitments.

(3) The public rights of way and permissive paths must be provided in accordance with the approved details.

(4) No part of the authorised development may commence until a public right of way and permissive path management plan relating to that part has been submitted to and approved by the relevant planning authority.

(5) The public right of way and permissive path management plan must be substantially in accordance with the outline public right of way and permissive path management plan.

(6) The public right of way and permissive path management plan must be implemented as approved and maintained throughout the construction and operation of the relevant part of the authorised development to which the plan relates.

(7) Nothing in this requirement prevents the withdrawal by the undertaker or its successor in title of permission to use the permissive paths after the date of decommissioning determined in accordance with requirement 19 (decommissioning and restoration).

Soil management plan

18.—(1) No part of the authorised development may commence until a soil management plan for that part has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Natural England.

(2) The soil management plan must be substantially in accordance with the outline soil management plan.

(3) The soil management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Decommissioning and restoration

19.—(1) The date of decommissioning:

(a) with respect to each phase of Work No. 1 must be no later than 40 years following the date of final commissioning as notified to the relevant planning authority pursuant to requirement 3 (phasing of the authorised development and date of final commissioning); and

(b) with respect to the associated development in Work Nos. 2 to 9 must be no later than the date of decommissioning for the phase of Work No. 1 to which such associated development relates, and where such associated development relates to more than one phase of Work No. 1 must be no later than the latest date of decommissioning of the phases of Work No. 1 to which such associated development relates.

(2) Unless otherwise agreed with the relevant planning authority, no later than 12 months prior to the date the undertaker intends to decommission any part of the authorised development, the undertaker must notify the relevant planning authority of the intended date of decommissioning for that part of the authorised development.

(3) Unless otherwise agreed with the relevant planning authority, no later than ten weeks prior to the intended date of decommissioning of any part of the authorised development notified pursuant to sub-paragraph (2), the undertaker must submit to the relevant planning authority a decommissioning environmental management plan for approval.

(4) The decommissioning environmental management plan must be substantially in accordance with the outline decommissioning environmental management plan and must include a timetable for its implementation.

(5) No decommissioning works may be carried out until the relevant planning authority has approved the decommissioning environmental management plan submitted in relation to those

works, in consultation with Lincolnshire County Council in its capacity as the local highway authority and waste planning authority, the Environment Agency, Natural England and the Ministry of Defence.

(6) The decommissioning environmental management plan must be implemented as approved.

(7) This requirement is without prejudice to any other consents or permissions that may be required to decommission any part of the authorised development.

Electrical noise

20.—(1) Unless otherwise agreed in writing by the relevant planning authority in consultation with the Ministry of Defence, no individual part(s) of the authorised development featuring Work Nos. 1 – 6 may commence unless or until an electrical noise interference management plan which accounts for the electrical noise emissions of that part(s) has been submitted to and approved by the relevant planning authority, such approval to be in consultation with the Ministry of Defence.

(2) The electrical noise interference management plan (unless otherwise agreed in writing between the relevant planning authority and the Ministry of Defence) must include but is not limited to:

(a) manufacturer's specifications for all electrical equipment including but not limited to solar PV modules, balance of solar system plant, substation, transformers, battery energy storage systems, inverters, switch gear, electrical cables included within Work Nos. 1 – 6;

(b) details of measures designed to prevent electrical noise interference being caused to technical installations at RAF Digby or forming part of the East 1 Wide Area Multilateration Network;

(c) report(s) and supporting evidence, using methodologies and standards accredited by the Ministry of Defence, to demonstrate how Works Nos. 1 – 6 (featured in the part(s) of the authorised development being submitted for approval under sub-paragraph (1), together with any part(s) of the authorised development featuring Works Nos. 1 – 6 that have already been approved under sub-paragraph (1) will be constructed, tested, operated, and maintained throughout the life of the development to ensure that individually or cumulatively any electrical noise emissions from each part(s) of the authorised development that will be built and in operation at the same time will be prevented or otherwise constrained to a level agreed by the Ministry of Defence to safeguard the effective operation of the technical site installations at RAF Digby or forming part of the East 1 Wide Area Multilateration Network;

(d) a protocol through which the undertaker can be notified by the Ministry of Defence of electrical noise interference issues or observations, the measures that would be taken by the undertaker to investigate, and a description of the approach to resolving, rectifying or mitigating those impacts and timescales for the undertaker to implement any such address; and

(e) parameters or requirements that would need to be met by any replacement or modification of the electrical equipment that is the subject of the management plan being submitted for approval under sub-paragraph (1), together with protocols through which the undertaker must:

(i) notify the Ministry of Defence of any replacement or modification of electrical equipment (such notification to provide confirmation that the electrical equipment complies with the approved management plan) using the evidence, methodologies or accredited standards referred to under sub-paragraph 20(2)(c); and

(ii) seek the Ministry of Defence's prior approval if the undertaker intends to replace electrical equipment that is the subject of the approved management plan and such equipment would not be in accordance with the approved management plan. All submissions for prior approval are to be supported with a relevant assessment(s) using evidence, methodologies or accredited standards referred to under sub-paragraph 20(2)(c).

(3) Unless otherwise agreed in writing by the relevant planning authority in consultation with the Ministry of Defence, the electrical noise interference management plan must be implemented as approved and maintained throughout the operation of the part(s) of the authorised development to which the plan relates, to ensure that no single part(s) of the authorised development for the duration that they may be built and operated individually or thereafter when connected together will produce any electrical noise emissions in excess of a level agreed by the Ministry of Defence to safeguard the effective operation of the technical site installations at RAF Digby or forming part of the East 1 Wide Area Multilateration Network.

(4) For the purposes of sub-paragraph (1), "part of Work Nos. 1 – 6" means all of the works comprised in Work Nos. 1 – 6 for a specified spatial part(s) of the Order limits, and would include installation and commissioning of all electrical systems required to enable such a part(s) to function as intended in its operational state.

Flood zone 3b

21. 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.

Procedure in cases of unexpected contamination

22.—(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 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.

Grid Connection

23. 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.

SCHEDULE 3

Article 6

LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of the authorised development and so far as the provisions still in force are incompatible with the powers contained within this Order—

(a) Anglian Water Authority Act 1977;

(b) Blankney Fen, Blankney Dales, Linwood Fen, Linwood Dales, Martin Fen and Martin Dales Drainage Act 1832;

(c) Lincoln Heath and Peterborough Road Act 1800;

(d) Lincolnshire Courthouse Act 1809;

(e) Lincolnshire Drainage Act 1840;

(f) Metherington and Dunston Drainage 1826;

(g) New Sleaford and Anwick Road and Tattershall Witham Bridge Act 1814;

(h) Ruskington, Dorrington and North Kyme (Lincs) Inclosure and Drainage Act 1832;

(i) The Land Drainage Supplemental Act 1871;

(j) The South East Lincolnshire Joint Strategic Planning Committee Order 2011;

(k) Trent and Lincolnshire Water Authority Act 1971;

(l) Witham Drainage Act 1762; and

(m) Witham First IDB byelaws.

SCHEDULE 4

Article 8

STREETS SUBJECT TO STREET WORKS

(1) *Area*	*(2)* *Street*	*(3)* *Extent of the street works*
District of North Kesteven	Public right of way Blan/738/1	Street works to facilitate cable installation works between points SW62 to SW63 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Street works to facilitate cable installation works between points SW66 to SW67 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/738/1	Street works to facilitate cable installation works between points SW72 to SW73 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/11/4	Street works to facilitate cable installation works between points SW78 to SW79 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/7/3	Street works to facilitate cable installation works between points SW86 to SW87 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Street works to facilitate cable installation works between points SW90 to SW91 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/8/2	Street works to facilitate cable installation works between points SW94 to SW95 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Street works to facilitate cable installation works between points SW64 to SW65 and shown by a pink line on sheet 3 of the streets, rights of way

		and access plans.
District of North Kesteven	Public right of way Blan/4/2	Street works to facilitate cable installation works between points SW82 to SW83 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	B1188, Scopwick	Street works to facilitate cable installation works between points SW57 to SW58 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Street works to facilitate cable installation works between points SW68 to SW69 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Street works to facilitate cable installation works between points SW70 to SW71 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/1	Street works to facilitate cable installation works between points SW88 to SW89 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/2	Street works to facilitate cable installation works between points SW92 to SW93 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/13/1	Street works to facilitate cable installation works between points SW59 to SW60 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/12/1	Street works to facilitate cable installation works between points SW80 to SW81 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Scopwick	Street works to facilitate cable installation works between points A96 to A97 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	B1191, between RAF Digby	Street works to facilitate cable

	and Scopwick	installation works between points SW76 to SW77 and shown by a pink line on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Rows/5/1	Street works to facilitate cable installation works between points SW53 to SW54 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	B1191, between RAF Digby and Ashby-de-la-Launde	Street works to facilitate cable installation works between points SW74 to SW75 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	Street works to facilitate cable installation works between points SW84 to SW85 and shown by a pink line on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	A15, north of A15/B1191 junction	Street works to facilitate cable installation works between points SW47 to SW48 and shown by a pink line on sheet 9 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	Street works to facilitate cable installation works between points A13 to A14 and shown by a pink line on sheet 10 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	Street works to facilitate cable installation works between points A11 to A12 and shown by a pink line on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Temp/2/1	Street works to facilitate cable installation works between points SW103 to SW104 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Street works to facilitate cable installation works between points SW37 to SW38 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	A15, south of Gorse Hill Lane	Street works to facilitate cable installation works between points SW49 to SW50 and

		shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Lane to Thompson's Bottom Farm, west of junction with A15	Street works to facilitate cable installation works between points SW101 to SW102 and shown by a pink line on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15 / Temple Road junction	Street works to facilitate cable installation works between points SW41 to SW42 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Brau/8/1	Street works to facilitate cable installation works between points SW51 to SW52 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.

SCHEDULE 5

Articles 10 and 12

ALTERATION OF STREETS

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
District of North Kesteven	Public right of way Blan/737/1, Scop/737/1, Scop/10/1, Scop/1135/1, Scop/1135/2, Scop/1136/1	Alteration of layout including works to upgrade the existing footpath to bridleway between points PE-A1 and PE-A2 shown by a blue line on sheets 3 and 4 of the streets, rights of way and access plans.
District of North Kesteven	B1188, Scopwick	Alteration of layout including the provision of a permanent means of access at AS-A1 shown shaded yellow on sheet 4 of the streets, rights of way and access plans, and associated works between points A1 and A2 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Scopwick	Alteration of layout including the provision of new footway between points A96 to A97 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	B1191, RAF Digby	Alteration of layout including the provision of new footway between points A99 to A100 and shown by a pink line on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	Heath Road, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A2 shown shaded yellow on sheet 6 of the streets, rights of way and access plans, and associated works between points A3 and A4 and shown by a pink line on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	B1191, RAF Digby	Alteration of layout including modifications to road markings on the carriageway between points A5 to A6 and shown by a pink line on sheet 7 of the streets, rights of way

		and access plans.
District of North Kesteven	B1191, Heath Road, Ashby-de-la-Launde	Alteration of layout including the widening of the carriageway between points A7 to A8 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Heath Road junction with Navenby Lane, Ashby-de-la-Launde	Alteration of layout including modifications to road markings on the carriageway between points A9 to A10 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	Alteration of layout including the provision of a permanent means of access at AS-A11 shown shaded yellow on sheet 8 of the streets, rights of way and access plans, and associated works between points A33 and A34 and shown by a pink line on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	Alteration of layout including the provision of a permanent means of access at AS-A12 shown shaded yellow on sheet 8 of the streets, rights of way and access plans, and associated works between points A35 and A36 and shown by a pink line on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	A15/B1191 Junction, east of junction with A15	Alteration of layout including the provision of a permanent means of access at AS-A4 shown shaded yellow on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	A15/B1191 Junction, east of junction with A15	Alteration of layout including the widening of the carriageway between points A11 to A12 and shown by a pink line on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	Alteration of layout including the provision of a permanent means of access at AS-A3 shown shaded yellow on sheet 10 of the streets, rights of way and access plans, and associated works including

		works to layby between points A13 to A14 and shown by a pink line on sheet 10 of the streets, rights of way and access plans.
District of North Kesteven	Heath Lane, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A10 and AS-13 shown shaded yellow on sheet 11 of the streets, rights of way and access plans, and associated works between points A31 to A32 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A8 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the widening of the carriageway between points A25 to A26 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A9 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the widening of the carriageway between points A27 to A28 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	A15, east of Navenby	Alteration of layout at the A15 / Gorse Hill Lane junction including the widening of the carriageway between points A29 to A30 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom Farm	Alteration of layout including the provision of a permanent means of access at AS-A6 shown shaded yellow on sheet 13 of the streets, rights of way and access plans, and

		associated works between points A21 to A22 and shown by a pink line on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom Farm	Alteration of layout including the provision of a permanent means of access at AS-A7 shown shaded yellow on sheet 13 of the streets, rights of way and access plans, and associated works between points A23 to A24 and shown by a pink line on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	A15/B1191 junction	Alteration of layout at the A15 / B1191 junction including the widening of the carriageway and improvement works between points A15 to A16 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between points A19 to A20 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including the provision of a permanent means of access at AS-A5 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between points A17 to A18 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including the provision of a permanent means of access at AS-A14 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between AC-A29 and AC-A30 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between

		AC-A31 and AC-A26 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.

SCHEDULE 6

Articles 11, 12 and 13

STREETS AND PUBLIC RIGHTS OF WAY

PART 1

STATUS OF PUBLIC RIGHTS OF WAY CREATED OR IMPROVED

(1) *Area*	*(2)* *Existing or new highway*	*(3)* *New status*
District of North Kesteven	Existing footpath Blan/737/1, Scop/737/1, Scop/10/1, Scop/1135/1, Scop/1135/2, Scop/1136/1 between points PE-A1 and PE-A2 shown by a blue line on sheets 3 and 4 of the streets, rights of way and access plans.	Bridleway
District of North Kesteven	New footpath between points FP-A1 and FP-A2 shown by a broken green line on sheets 4 and 6 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A2 and FP-A3 shown by a broken green line on sheet 4 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A7 and FP-A8 shown by a broken green line on sheets 10 and 15 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A4 and FP-A5 shown by a broken green line on sheet 15 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A5 and FP-A6 shown by a broken green line on sheet 15 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A6 and FP-A7 shown by a broken green line on sheet 15 of the streets, rights of way and access plans.	Footpath

PART 2

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS

(1) *Area*	*(2)* *Street*	*(3)* *Measure*
District of North Kesteven	Approximately 320 metres of Gorse Hill Lane, east of Navenby as shown between points TTM01 and TTM02 and coloured pink on sheet 12 of the traffic regulations plans.	Temporarily closed to all traffic save for traffic under the direction of the undertaker.

PART 3

TEMPORARY PROHIBITION OR RESTRICTION OF PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be temporarily closed between points SW72 to SW73 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be temporarily closed between points SW62 to SW63 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be temporarily closed between points SW66 to SW67 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be temporarily closed between points SW90 to SW91 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/11/4	Public right of way to be temporarily closed between points SW78 to SW79 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1134/1	Public right of way to be temporarily closed between points SW86 to SW87 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.

District of North Kesteven	Public right of way Scop/8/2	Public right of way to be temporarily closed between points SW94 to SW95 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be temporarily closed between points SW82 to SW83 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be temporarily closed between points SW64 to SW65 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be temporarily closed between points SW68 to SW69 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be temporarily closed between points SW70 to SW71 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/2	Public right of way to be temporarily closed between points SW92 to SW93 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/1	Public right of way to be temporarily closed between points SW88 to SW89 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/12/1	Public right of way to be temporarily closed between points SW80 to SW81 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/13/1	Public right of way to be temporarily closed between points SW59 to SW60 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Rows/5/1	Public right of way to be temporarily closed between

		points SW53 to SW54 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Temp/2/1	Public right of way to be temporarily closed between points SW103 to SW104 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Brau/8/1	Public right of way to be temporarily closed between points SW51 to SW52 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.

PART 4

TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be managed during construction of the authorised development between points SW72 to SW73 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be managed during construction of the authorised development between points SW62 to SW63 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be managed during construction of the authorised development between points SW66 to SW67 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be managed during construction of the authorised development between points SW90 to SW91 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/11/4	Public right of way to be managed during construction of the authorised development between points SW78 to

		SW79 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1134/1	Public right of way to be managed during construction of the authorised development between points SW86 to SW87 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/8/2	Public right of way to be managed during construction of the authorised development between points SW94 to SW95 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be managed during construction of the authorised development between points SW82 to SW83 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be managed during construction of the authorised development between points SW64 to SW65 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be managed during construction of the authorised development between points SW68 to SW69 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be managed during construction of the authorised development between points SW70 to SW71 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/2	Public right of way to be managed during construction of the authorised development between points SW92 to SW93 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/1	Public right of way to be managed during construction of the authorised development between points SW88 to

		SW89 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/12/1	Public right of way to be managed during construction of the authorised development between points SW80 to SW81 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/13/1	Public right of way to be managed during construction of the authorised development between points SW59 to SW60 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Rows/5/1	Public right of way to be managed during construction of the authorised development between points SW53 to SW54 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Temp/2/1	Street works to facilitate cable installation works between points SW103 to SW104 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Brau/8/1	Public right of way to be managed during construction of the authorised development between points SW51 to SW52 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.

SCHEDULE 7

Article 15

ACCESS TO WORKS

(1) *Area*	*(2)* *Street*	*(3)* *Description of means of access*
District of North Kesteven	B1188, Scopwick	The provision of a permanent means of access to the authorised development between points AC-A1 and AC-A2 shown shaded yellow on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A3 and AC-A4 shown shaded yellow on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A21 and AC-A22 shown shaded yellow on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A23 and AC-A24 shown shaded yellow on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of A15 / B1191 junction	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A5 and AC-A6 shown shaded yellow on sheet 10 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	The provision of a permanent means of access to the authorised development between points AC-A7 and AC-A8 shown shaded yellow on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	Heath Lane, east of Navenby	The provision of a permanent

		means of access to the authorised development between points AC-A19 and AC-A20 shown shaded yellow on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Heath Lane, east of junction with A15	The provision of a permanent means of access to the authorised development between points AC-A25 and AC-A26 shown shaded yellow on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A15 and AC-A16 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A17 and AC-A18 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom, west of A15	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A11 and AC-A12 shown shaded yellow on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom, west of A15	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A13 and AC-A14 shown shaded yellow on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	The provision of a permanent means of access to the authorised development between points AC-A9 and AC-A10 shown shaded yellow on sheet 14 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	The provision of a permanent means of access to the authorised development between points AC-A27 and AC-A28 shown shaded yellow on sheet 15 of the streets,

		rights of way and access plans.

SCHEDULE 8

Article 17

TRAFFIC REGULATION MEASURES

PART 1

TEMPORARY SPEED LIMITS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Temporary speed limit*
District of North Kesteven	B1191 From its junction with A15 (point TTM09) in a generally north-easterly direction to point TTM10 for a distance of 310 metres and coloured black on sheets 10 and 15 of the traffic regulations plans	40 miles per hour
District of North Kesteven	Gorse Hill Lane From its junction with A15 (point TTM02) in a generally westerly direction to point TTM01 for a distance of 320 metres and coloured pink on sheet 12 of the traffic regulations plans.	40 miles per hour
District of North Kesteven	A15 From a point 615 metres in a generally northerly direction of its junction with Gorse Hill Lane (point TTM64) to point TTM65 for a distance of 1,210 metres and coloured black on sheet 12 of the traffic regulations plans.	40 miles per hour
District of North Kesteven	A15 From a point 610 metres in a generally northerly direction of its junction with B1191 (point TTM72) to point TTM73 for a distance of 835 metres and coloured black on sheets 14 and 15 of the traffic regulations plans.	40 miles per hour
District of North Kesteven	Temple Road From its junction with A15 (point TTM67) in a generally north-westerly direction to point TTM66 for a distance of 1,010 metres and coloured black on sheet 15 of the traffic regulations plans.	40 miles per hour

PART 2

TEMPORARY ROAD CLOSURES

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Temporary road closures*
District of North Kesteven	Gorse Hill Lane From its junction with A15 (point TTM02) in a generally westerly direction to point TTM01 for a distance of 320 metres and coloured pink on sheet 12 of the traffic regulations plans.	Closed to all traffic save for traffic under the direction of the undertaker

PART 3

TEMPORARY TRAFFIC SIGNALS

(1) *Area*	*(2)* *Extent of temporary traffic signals*
District of North Kesteven	B1188 An area of existing highway from a point 365 metres in a generally northerly direction of Bloxholm Lane (point TTM33) in a generally northerly direction to point TTM32 for a distance of 320 metres and including the means of access to the authorised development, and coloured blue on sheet 4 of the traffic regulations plan.
District of North Kesteven	B1188 An area of existing highway from a point 90 metres in a generally northerly direction of the junction with B1191 (point TTM34) in a generally northerly direction to point TTM35 for a distance of 50 metres, and coloured blue on sheet 4 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from its junction with the access to Heath Farm House (point TTM74) in a generally northerly direction to point TTM75 for a distance of 50 metres, and coloured blue on sheet 6 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 185 metres in a generally southerly direction of the access adjacent to Scopwick Mill (point TTM24) in a generally southerly direction to point TTM25 for a distance of 320 metres and including the means of access to the authorised development, and coloured blue on sheet 6 of the traffic regulations plans.

District of North Kesteven	B1191 An area of existing highway from a point 260 metres in a generally southerly direction of the access adjacent to Scopwick Mill (point TTM27) in a generally southerly direction to point TTM26 for a distance of 47 metres, and coloured blue on sheet 6 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 245 metres in a generally southerly direction of the junction with Navenby Lane (point TTM14) in a generally northerly direction to point TTM15 for a distance of 305 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	Navenby Lane An area of existing highway from a point 20 metres in a generally westerly direction of the Navenby Lane junction (point TTM16) in a generally easterly direction to point TTM17 for a distance of 20 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 225 metres in a generally northerly direction of the junction with Glebe Farm (point TTM18) in a generally northerly direction to point TTM19 for a distance of 50 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 55 metres in a generally northerly direction of the junction with the RAF Digby access point (point TTM22) in a generally easterly direction to point TTM23 for a distance of 130 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	Navenby Lane An area of existing highway from a point 370 metres in a generally easterly direction of its junction with A15 (point TTM68) in a generally easterly direction to point TTM69 for a distance of 275 metres and including the means of access to the authorised development, and coloured blue on sheet 8 of the traffic regulations plans.
District of North Kesteven	Navenby Lane An area of existing highway from a point 920 metres in a generally easterly direction of its junction with A15 (point TTM80) in a generally easterly direction to point TTM81 for a distance of 42 metres, and coloured blue on sheet 8 of the traffic regulations plans.
District of North Kesteven	A15 An area of existing highway from a point 970 metres in a generally southerly direction of the

	junction with Navenby Lane (point TTM05) in a generally southerly direction to point TTM06 for a distance of 47 metres, and coloured blue on sheet 9 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from its junction with A15 (point TTM09) in a generally north-easterly direction to point TTM10 for a distance of 310 metres and including the means of access to the authorised development, and coloured blue on sheets 10 and 15 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 275 metres in a generally easterly direction of its junction with A15 (point TTM11) in a generally easterly direction to point TTM12 for a distance of 290 metres and including means of access to the authorised development, and coloured blue on sheet 10 of the traffic regulations plans.
District of North Kesteven	Heath Lane An area of existing highway from its junction with A15 (point TTM63) in a generally westerly direction for a distance of 175 metres to point TTM62 and including the means of access to the authorised development, and coloured blue on sheet 11 of the traffic regulations plans.
District of North Kesteven	Gorse Hill Lane An area of existing highway from its junction with A15 (point TTM02) in a generally westerly direction for a distance of 320 metres to point TTM01 and including the means of access to the authorised development, and coloured pink on sheet 12 of the traffic regulations plans.
District of North Kesteven	A15 An area of existing highway from a point 615 metres in a generally northerly direction of its junction with Gorse Hill Lane (point TTM64) in a generally southerly direction to point TTM65 for a distance of 1,210 metres, and coloured blue on sheet 12 of the traffic regulation plans.
District of North Kesteven	Lane leading to Thompson's Bottom Farm An area of existing highway from a point 885 metres in a generally westerly direction of its junction with A15 (point TTM70) in a generally easterly direction to point TTM71 for a distance of 345 metres and including the means of access to the authorised development, and coloured blue on sheet 13 of the traffic regulation plans.
District of North Kesteven	A15 An area of existing highway from a point 610

	metres in a generally northerly direction of its junction with B1191 (point TTM72) in a generally southerly direction to point TTM73 for a distance of 835 metres, and coloured blue on sheets 14 and 15 of the traffic regulations plans.
District of North Kesteven	Temple Road An area of existing highway from its junction with A15 (point TTM67) in a generally north-westerly direction to point TTM66 for a distance of 1,010 metres and including the means of access to, and the passing places for, the authorised development, and coloured blue on sheet 15 of the traffic regulations plans.

PART 4

PERMANENT SPEED LIMITS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Permanent speed limit*
District of North Kesteven	B1191 From a point 550 metres from its junction with B1188 (PTR01) in a generally north-easterly direction to point PTR02 for a distance of 55 metres and coloured green on sheet 5 of the traffic regulations plans.	30 miles per hour

SCHEDULE 9

Article 24

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

Interpretation

1. In this schedule—

"access rights" means rights over land to—

(a) alter, improve, form, maintain, retain, use (with or without vehicles, plant and machinery), remove, reinstate means of access to the authorised development including visibility splays and road widening or improvements and to remove impediments (including vegetation) to such access; and

(b) pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface) for all purposes in connection with the authorised development;

"cable rights" means rights over land to—

(c) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain electrical underground cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other apparatus and structures;

(d) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development; and

(e) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development;

"public right of way rights" means rights over land to—

(f) alter, improve, form, maintain, retain, use, reinstate public rights of way; and

(g) pass and repass on foot, without vehicles, for all purposes in connection with the use of the public rights of way;

"substation connection rights" means rights over land to—

(h) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain electrical cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other apparatus and structures and to connect such cables and services to the National Grid Navenby Substation;

(i) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain watercourses, public sewers and drains and drainage apparatus and equipment;

(j) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the National Grid Navenby Substation works;

(k) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development; and

(l) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain soft landscaping and biodiversity measures; and

"vegetation maintenance rights" means rights over land to install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain vegetation and restrict or prevent the removal of vegetation for the purposes of the authorised development and in connection with the authorised development.

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purposes for which rights over land may be required and restrictive covenants imposed*
1/2	cable rights, vegetation maintenance rights
2/2	cable rights, vegetation maintenance rights
2/10	cable rights, vegetation maintenance rights
2/4	cable rights, vegetation maintenance rights
2/6	vegetation maintenance rights, access rights
2/9	cable rights
4/1	cable rights
4/3	public right of way rights
4/4	public right of way rights
4/5	cable rights
4/7	cable rights
4/9	cable rights
4/12	cable rights, vegetation maintenance rights
4/14	cable rights, vegetation maintenance rights
4/17	cable rights
4/18	cable rights
6/1	cable rights
6/2	cable rights
6/3	cable rights
6/4	cable rights, vegetation maintenance rights
6/5	cable rights
6/7	cable rights
7/1	cable rights
7/15	cable rights
7/16	cable rights
8/4	cable rights
8/6	cable rights, vegetation maintenance rights
8/8	cable rights
9/2	cable rights, vegetation maintenance rights
9/6	cable rights, vegetation maintenance rights
10/2	public right of way rights
10/3	cable rights, vegetation maintenance rights
11/1	substation connection rights
11/3	substation connection rights
11/4	substation connection rights
12/3	substation connection rights
12/4	substation connection rights
12/8	substation connection rights
12/9	substation connection rights
12/13	cable rights, vegetation maintenance rights
12/14	cable rights, vegetation maintenance rights

12/16	cable rights
12/17	cable rights
12/18	cable rights
12/19	cable rights
13/3	vegetation maintenance rights
13/6	cable rights, vegetation maintenance rights
13/8	cable rights
13/11	cable rights
14/2	cable rights
14/6	cable rights, vegetation maintenance rights
15/2	cable rights, vegetation maintenance rights
15/5	cable rights, vegetation maintenance rights
15/7	cable rights, public right of way rights
15/8	cable rights
15/10	cable rights
15/11	cable rights
15/13	cable rights

SCHEDULE 10

Article 24

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5—

(a) for the words "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for the words "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

3.—(1) Without limitation to the scope of paragraph 1, the 1961 Act has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 5A(5A) (relevant valuation date) of the 1961 Act, omit the words after "if—" and substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in pursuant of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 10 to the Springwell Solar Farm Order 202*);

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 10 to the Springwell Solar Farm Order 202*) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.".

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the acquisition of land under article 22 (compulsory acquisition of land) and as modified by article 29 (modification of Part 1 of the Compulsory Purchase Act 1965), applies to the compulsory acquisition of a right by the creation of a new right under article 24 (compulsory acquisition of rights)—

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

(**a**) 1973 c. 26.

5.—(1) The modifications referred to in paragraph 4(a) are as follows—

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

(3) For section 7 of the 1965 Act (measure of compensation in case of severance) substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.".

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (refusal to convey, failure to make title, etc.);

(b) paragraph 10(3) of Schedule 1 (conveyance of the land or interest);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (**a**) (powers of entry) of the 1965 Act is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 22 (compulsory acquisition of land)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A(**b**) (powers of entry: further notices of entry), 11B(**c**) (counter-notice requiring possession to be taken on specified date), 12(**d**) (unauthorised entry) and 13(**e**) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(**f**) (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or enforcement of the restrictive covenant in question.

(**a**) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(**b**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(**c**) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(**d**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016.

(**e**) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**f**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 29(4) (modification of Part 1 of the Compulsory Purchase Act 1965) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act (counter notice requiring purchase of land not in notice to treat) substitute—

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 26 (application of the 1981 Act) of the Springwell Solar Farm Order 202* in respect of the land to which the notice to treat relates.

(2) But see article 27(3) (acquisition of subsoil only) of the Springwell Solar Farm 202* which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter notice, or

(c) refer the counter notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served ("the decision period").

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory; cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense cause by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 11

Article 31

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purpose for which temporary possession may be taken*
3/1, 4/6, 4/8, 4/10, 4/11, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/14, 8/1, 8/3, 8/5, 11/2, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12, 12/6, 12/7, 12/10, 12/11, 12/12, 12/15, 13/4, 13/10	Temporary use (including access) to carry out Work No. 8 (being works to the street or highway to facilitate access) and management of traffic and vegetation to facilitate the construction of Work Nos. 1 to 9.
3/2, 4/13, 4/21	Temporary use (including access) to carry out works to existing public right of way and associated management of vegetation
12/1	Temporary use (including access) for management of vegetation

SCHEDULE 12

Article 40

HEDGEROWS TO BE REMOVED

PART 1

REMOVAL OF HEDGEROWS

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
District of North Kesteven	Removal of part of approximately 4m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R1
District of North Kesteven	Removal of part of approximately 7m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R3
District of North Kesteven	Removal of part of approximately 8m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R4
District of North Kesteven	Removal of part of approximately 6m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R6
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R9
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R10
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R12
District of North Kesteven	Removal of part of approximately 14m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R13
District of North Kesteven	Removal of part of approximately 19m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R14
District of North Kesteven	Removal of part of approximately 15m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R15
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue

	shading on figure 3.11C of the vegetation removal parameters, reference R16
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R17
District of North Kesteven	Removal of part of approximately 15m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R18
District of North Kesteven	Removal of part of approximately 21m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R22
District of North Kesteven	Removal of part of approximately 15m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R23
District of North Kesteven	Removal of part of approximately 3m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R24
District of North Kesteven	Removal of part of approximately 12m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R25
District of North Kesteven	Removal of part of approximately 30m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R26
District of North Kesteven	Removal of part of approximately 198m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R29
District of North Kesteven	Removal of part of approximately 13m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R30
District of North Kesteven	Removal of part of approximately 9m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R31
District of North Kesteven	Removal of part of approximately 5m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R32
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R33
District of North Kesteven	Removal of part of approximately 53m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R34
District of North Kesteven	Removal of part of approximately 43m of

	hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R38
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R39
District of North Kesteven	Removal of part of approximately 5m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R40
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R41
District of North Kesteven	Removal of part of approximately 34m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R42
District of North Kesteven	Removal of part of approximately 14m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R43
District of North Kesteven	Removal of part of approximately 139m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R44
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R45
District of North Kesteven	Removal of part of approximately 5m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R46
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R47
District of North Kesteven	Removal of part of approximately 30m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R48
District of North Kesteven	Removal of part of approximately 2m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R49
District of North Kesteven	Removal of part of approximately 2m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R50

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R2
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R5
District of North Kesteven	Removal of part of approximately 3m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R7
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R8
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R11
District of North Kesteven	Removal of part of approximately 18m of hedgerow within the area identified by orange shading on figure 3.11C of the vegetation removal parameters, reference R19
District of North Kesteven	Removal of part of approximately 16m of hedgerow within the area identified by orange shading on figure 3.11C of the vegetation removal parameters, reference R20
District of North Kesteven	Removal of part of approximately 30m of hedgerow within the area identified by orange shading on figure 3.11C of the vegetation removal parameters, reference R21
District of North Kesteven	Removal of part of approximately 136m of hedgerow within the area identified by orange shading on figure 3.11D of the vegetation removal parameters, reference R27
District of North Kesteven	Removal of part of approximately 29m of hedgerow within the area identified by orange shading on figure 3.11D of the vegetation removal parameters, reference R28
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by orange shading on figure 3.11F of the vegetation removal parameters, reference R35
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by orange shading on figure 3.11E of the vegetation removal parameters, reference R36
District of North Kesteven	Removal of part of approximately 25m of

	hedgerow within the area identified by orange shading on figure 3.11E of the vegetation removal parameters, reference R37

SCHEDULE 13

Article 42

DOCUMENTS AND PLANS TO BE CERTIFIED

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*
book of reference	EN010149/APP/4.3.4	4	September 2025
crown land plans	EN010149/APP/2.7	1	November 2024
design commitments	EN010149/APP/7.4.2	2	August 2025
environmental statement (excluding chapters 3, 7, 8, 9, 11, 12, 13, 14, 16 and 17; Figures 3.1-3.15, Figures 16.1-16.8; Appendices 5.4, 7.1, 7.5, 7.11, 7.14, 9.1, 16.1, Volume 4 Part 6)	EN010149/APP/6.1-6.4	1	November 2024
environmental statement chapter 3	EN010149/APP/6.1.2	2	June 2025
environmental statement chapter 7	EN010149/APP/6.1.3	3	August 2025
environmental statement chapter 8	EN010149/APP/6.1.2	2	August 2025
environmental statement chapter 9	EN010149/APP/6.1.2	2	January 2025
environmental statement chapter 11	EN010149/APP/6.1.2	2	June 2025
environmental statement chapter 12	EN010149/APP/6.1.2	2	August 2025
environmental statement chapter 13	EN010149/APP/6.1.2	2	June 2025
environmental statement chapter 14	EN010149/APP/6.1.2	2	January 2025
environmental statement chapter 16	EN010149/APP/6.1.5	5	September 2025
environmental statement chapter 17	EN010149/APP/6.1.2	2	June 2025
environmental statement figures 3.1-3.15	EN010149/APP/6.2.4	4	September 2025
environmental statement figures 16.1-16.8	EN010149/APP/6.2.4	4	September 2025
environmental statement appendix 5.4	EN010149/APP/6.3.2	2	June 2025
environmental statement appendix 7.1	EN010149/APP/6.3.3	3	August 2025
environmental	EN010149/APP/6.3.2	2	June 2025

statement appendix 7.5			
environmental statement appendix 7.11	EN010149/APP/6.3.2	2	August 2025
environmental statement appendix 7.14	EN010149/APP/6.3.4	4	October 2025
environmental statement appendix 9.1	EN010149/APP/6.3.5	5	September 2025
environmental statement appendix 16.1	EN010149/APP/6.3.5	5	September 2025
environmental statement landscape visualisations – part 6	EN010149/APP/6.4.2	2	August 2025
land plans	EN010149/APP/2.2.2	2	January 2025
outline battery safety management plan	EN010149/APP/7.14.2	2	June 2025
outline construction environmental management plan	EN010149/APP/7.7.5	5	September 2025
outline construction traffic management plan	EN010149/APP/7.8.4	4	September 2025
outline decommissioning environmental management plan	EN010149/APP/7.13.5	5	September 2025
outline drainage strategy	flood risk assessment EN010149/APP/7.16.3 (appendix A)	3	June 2025
outline employment, skills and supply chain plan	EN010149/APP/7.20	1	November 2024
outline landscape and ecology management plan	EN010149/APP/7.9.5	5	October 2025
outline operational environmental management plan	EN010149/APP/7.10.5	5	September 2025
outline public right of way and permissive path management plan	EN010149/APP/7.12.3	3	August 2025
outline soil management plan	EN010149/APP/7.11.3	3	August 2025
outline written scheme of investigation	EN010149/APP/7.15.3	3	September 2025
draft archaeological mitigation strategy	outline written scheme of investigation EN010149/APP/7.15.2 (appendix 4)	2	August 2025
project parameters	environmental statement	1	November 2024

	EN010149/APP/6.3 (appendix 3.1)		
streets, rights of way and access plans	EN010149/APP/2.4.3	3	June 2025
traffic regulations plans	EN010149/APP/2.6	1	November 2024
vegetation removal parameters	environmental statement EN010149/APP/6.2.3 (figure 3.11)	2	August 2025
works plans	EN010149/APP/2.3	1	November 2024

SCHEDULE 14

Article 43

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of their acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

(a) a written statement of defence consisting of a response to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any elements of the claimant's claim and its contentions as to those elements of the claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;

(c) any objection it wishes to make to the claimant's statements, comments on the claimant's expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

(a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the respondent's submissions;

(c) any expert report in response to the respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within ten days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross-examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and

(c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996, save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

(a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Hearings in this arbitration are to take place in private.

(2) Materials, documents, awards, expert reports and any matters relating to the arbitration are confidential and must not be disclosed to any third party without prior written consent of the other party, save for any application to the courts or where disclosure is required under any legislative or regulatory requirement.

SCHEDULE 15

Article 44

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule (save for any utility undertakers which are specifically protected by any other Part of this Schedule, which will take precedence), the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertakers concerned.

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

"apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

(c) in the case of a water undertaker—

(i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991;

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(**b**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus; and

(e) any other mains, pipelines or cables that are not the subject of the protective provisions in Parts 2 to 6 of this Schedule;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; and

"utility undertaker" means—

(f) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(**a**) 1989 c. 29.
(**b**) 1991 c. 56.

(g) a gas transporter within the meaning of Part 1 of the Gas Act 1986(**a**);

(h) water undertaker within the meaning of the Water Industry Act 1991;

(i) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, and

(j) an owner or operator of apparatus within paragraph (j) of the definition of that term,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 13 (temporary prohibition or restriction on use of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 43, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph

---

(**a**) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

(2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable

subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12.—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

(2) In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

"operator" means the operator of an electronic communications code network.

13. The exercise of the powers of article 33 (statutory undertakers) is subject to Part 10 (undertakers' works affecting electronic communications apparatus) of the electronic communications code.

14.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(**a**) 2003 c. 21.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 43 (arbitration).

15. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

16. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

17. The provisions of this Part of this Schedule have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

18. In this Part of this Schedule—

"authorised development" has the same meaning as in article 2 (interpretation) of this Order and (unless otherwise specified) for the purposes of this Part of this Schedule includes the operation and maintenance of the authorised development and the construction of any works authorised by this Part of this Schedule;

"construction" includes execution, placing, altering, replacing, relaying and removal, and "construct" and "constructed" must be construed accordingly;

"drainage authority" means in relation to an ordinary watercourse—

(a) the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991; or

(b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section 6 (other definitions) of the Flood and Water Management Act 2010;

"drainage work" means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance constructed for land drainage or flood defence which is the responsibility of the drainage authority;

"ordinary watercourse" has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991;

"plans" includes sections, drawings, specifications and method statements;

"specified work" means so much of the authorised development as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to affect the flow of water in any watercourse.

19.—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may reasonably require within 14 days of the submission of the plans.

(2) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 9.

(3) Any approval of the drainage authority required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been given if it is neither given nor refused within 28 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work taking into account the terms of this Order.

(4) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

20. Without limiting the scope of paragraph 3, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary taking account of the terms of this Order—

(a) to safeguard any drainage work against damage by reason of any specified work; or

(b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased beyond the level of flood risk that was assessed in the environmental statement, by reason of any specified work.

21.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 4, must be constructed—

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and

(b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and

(b) notice in writing of its completion not later than seven days after the date on which it is brought into use.

22. If by reason of the construction of a specified work or of the failure of any a specified work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

23. The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

(a) in the examination or approval of plans under this Part of this Schedule;

(b) in inspecting the construction of the specified work or any protective works required by the drainage authority under this Part of this Schedule; and

(c) in carrying out any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified work.

24.—(1) The undertaker must make reasonable compensation for liabilities, costs and losses which may be reasonably incurred or suffered by reason of—

(a) the construction of any specified works comprised within the authorised development; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others while engaged upon the construction of the authorised development.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand.

(3) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(4) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(5) The drainage authority will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(6) The drainage authority will, at the request of the undertaker and having regard to its statutory functions, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(7) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

(8) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of the drainage authority or the breach of a statutory duty of the drainage authority, its officers, servants, contractors or agents.

25. Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 43 (arbitration).

PART 4

FOR THE PROTECTION OF LINCOLNSHIRE FIRE AND RESCUE SERVICE

Interpretation

26.—(1) For the protection of Lincolnshire Fire and Rescue Service as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Lincolnshire Fire and Rescue Service.

(2) In this Part of this Schedule—

"Index Linked" means an increase in the sums payable on an annual basis or pro rata per diem in accordance with the most recent published figure for the Consumer Price Index, or during any period when no such index exists the index which replaces it or is the nearest equivalent to it; and

"Lincolnshire Fire and Rescue Service" means Lincolnshire County Council in its capacity as a fire and rescue authority pursuant to section 1(2)(a) of the Fire and Rescue Services Act 2004.

Site visits

27.—(1) The undertaker must, prior to the date of final commissioning of Work No. 4, use reasonable endeavours to facilitate a site familiarisation exercise in connection with Work No. 4 of the authorised development for Lincolnshire Fire and Rescue Service for the purposes of providing the necessary assurance to Lincolnshire Fire and Rescue Service that all the required systems and measures are in place in accordance with the battery safety management plan.

(2) Following the first anniversary of the date of final commissioning of Work No. 4 of the authorised development, the undertaker must use reasonable endeavours to facilitate an annual

review of Work No. 4 by Lincolnshire Fire and Rescue Service at the reasonable request of Lincolnshire Fire and Rescue Service, up until the year in which the undertaker commences decommissioning of Work No. 4.

Costs

28.—(1) Pursuant to the provisions set out at paragraph 27, the undertaker must pay to Lincolnshire Fire and Rescue Service—

(a) £16,665 in the first year of operation of the authorised development for, or in connection with Lincolnshire Fire and Rescue Service's attendance at the site familiarisation exercise facilitated by the undertaker pursuant to paragraph 27(1), such sum to be paid within 30 days following the date of the site familiarisation exercise; and

(b) £1,530 in each subsequent year of operation of the authorised development until the date of decommissioning of Work No. 4, such sums to be paid within 30 days of the date of the annual review for that year, if in that year an annual review has taken place pursuant to paragraph 27(2).

(2) The costs payable under this sub-paragraph (1)(b) are to be Index Linked.

Arbitration

29. Any difference or dispute arising between the undertaker and Lincolnshire Fire and Rescue Service under this Part of this Schedule must be determined by arbitration in accordance with article 43 (arbitration).

PART 5

FOR THE PROTECTION OF RAILWAY INTERESTS

30. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 44 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

31. In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and-

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licencee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under:

(c) the Railways Act 1993;

(d) the network licence; and/or

(e) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain authorised development) in respect of such works.

32.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

33.—(1) The undertaker must not exercise the powers conferred by—

(a) article 3 (development consent etc. granted by the Order);

(b) article 5 (power to maintain authorised development);

(c) article 13 (temporary prohibition or restriction on use of streets and public rights of way);

(d) article 18 (discharge of water);

(e) article 20 (authority to survey and investigate the land);

(f) article 22 (compulsory acquisition of land);

(g) article 24 (compulsory acquisition of rights);

(h) article 27 (acquisition of subsoil only);

(i) article 28 (power to override easements and other rights);

(j) article 31 (temporary use of land for constructing the authorised development);

(k) article 32 (temporary use of land for maintaining the authorised development);

(l) article 33 (statutory undertakers);

(m) article 40 (felling or lopping of trees and removal of hedgerows);

(n) article 41 (trees subject to tree preservation orders);

(o) the powers conferred by section 11(3) (power of entry) of the 1965 Act;

(p) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

(q) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

(r) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 33, article 28 or article 25 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

34.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before

the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

35.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 34(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 34;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

36.—(1) The undertaker must—

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

37. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

38.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation

of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 34(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 39(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

39. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 34(3) or in constructing any protective works under the provisions of paragraph 34(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

40.—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 34(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must

continue to consult with Network Rail (both before and after formal submission of plans under paragraph 34(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 34(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred –

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 35.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 44(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 39(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 43 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

41. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

42. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

43. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

44.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 50 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and

(c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network

Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

45. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 44) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

46. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

47. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

48. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

49. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 37 (consent to transfer the benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

50. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 42 (certification of plans and documents etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

51. Any dispute arising under this Part of this Schedule, unless otherwise provided for, must be referred to and settled by arbitration in accordance with article 43 (arbitration) and the Rules at Schedule 14 (arbitration rules).

PART 6

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

52. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

53. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"Anglian Water" means Anglian Water Services Limited;

"apparatus" means:

(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works vested in Anglian Water under the Water Industry Act 1991;

(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and for the purpose of this definition, where words are defined by section 219 of that Act, they are taken to have the same meaning.

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed.

On street apparatus

54. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

55. Regardless of the temporary closure or diversion of any highway under the powers conferred by article 13 (temporary prohibition or restriction on use of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as

may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

56. The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), may not exercise those powers so as to obstruct or render less convenient the access to any apparatus without the written consent of Anglian Water (such consent not to be unreasonably withheld or delayed).

Acquisition of land

57. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

58.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 59.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 43, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian

Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which must remain the sole responsibility of Anglian Water or its contractors unless these works are to be carried out by the undertaker in accordance with sub-paragraph (6).

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

59.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

Retained apparatus

60.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 58(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written

notice to the undertaker of that requirement, sub-paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 58(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

(a) 4 metres where the diameter of the pipe is less than 250 millimetres;

(b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and

(c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

61.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

62.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 56 or 58(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water, accompanied by an invoice or claim from Anglian Water, in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty, or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors, or agents.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must use reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the undertaker must bear and pay the costs for.

Cooperation

63. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 58(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 60, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

64. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it must inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

65. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

66. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 7

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

Application

67.—(1) For the protection of NGET as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and NGET.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and NGET, where the benefit of this Order is transferred or granted to another person under article 37 (consent to transfer the benefit of the Order) –

(a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between NGET and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to NGET on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to NGET (but without prejudice to paragraph 82(3)b).

Interpretation

68.—(1) In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the specified works; and (b) after the construction period of the specified works in respect of any use and maintenance of the specified works by or on behalf of the undertaker and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of NGET

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security" means either:

(a) a parent company guarantee from a parent company in favour of NGET to cover the undertaker's liability to NGET to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to NGET and where required by NGET, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of NGET to cover the undertaker's liability to NGET for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to NGET);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of NGET to enable NGET to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by NGET together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of NGET for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule will include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by NGET (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for NGET’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“incentive deduction” means any incentive deduction NGET receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

“maintain” and “maintenance” will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of NGET: construct, use, repair, alter, inspect, renew or remove the apparatus;

“NGET” means National Grid Electricity Transmission Plc (Company Number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

“NGESO” means as defined in the STC;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Grid Electricity Transmission Plc acting reasonably;

“specified works” means any of the authorised works or activities undertaken in association with the authorised development which:

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 78(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 78(2) or otherwise; and/or

(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

"STC" means the System Operator Transmission Owner Code prepared by the electricity transmission owners and NGESO as modified from time to time;

"STC claims" means any claim made under the STC against NGET arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of NGET's transmission system which arises as a result of the authorised works; and

"transmission owner" means as defined in the STC.

Interaction with the National Grid Navenby Substation

69.—(1) Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised development and the National Grid Navenby Substation. For the purposes of this paragraph, "reasonable endeavours" means—

(a) undertaking consultation on the detailed design and programming of the grid connection works and all works associated with or ancillary to the grid connection works to ensure that the design and programme for the grid connection works does not unreasonably impede or interfere with the National Grid Navenby Substation;

(b) having regard to the proposed programme of works for the National Grid Navenby Substation (as may be made available to the undertaker by NGET) and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the grid connection works;

(c) providing a point of contact for the undertaker for continuing liaison and co-ordination throughout the construction and operation of the specified works;

(d) keeping NGET informed on the programme of works for the specified works.

Grid connection works

70. The undertaker must not except with the agreement of NGET pursuant to this Part of this Schedule, carry out the grid connection works, or any part of it (excepting any works which are works regulated by the connection agreement between the undertaker and National Grid Energy Systems Operator (or a successor thereto)).

71.—(1) Before beginning to construct any grid connection works, or any part of it, the undertaker must submit to NGET plans of the relevant grid connection works (or part of it) and such further particulars available to it as NGET may request within 21 days of receipt of the plans reasonably requested.

(2) Any grid connection works must not be constructed except in accordance with such plans as may be approved in writing by NGET.

72.—(1) Any approval of NGET required under this Schedule—

(a) must not be unreasonably withheld or delayed;

(b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and

(c) may be given subject to such reasonable requirements as NGET may have in connection with the safe, economic and efficient construction, commissioning, operation,

maintenance and future decommissioning of the National Grid Navenby Substation or otherwise for the protection of National Grid Navenby Substation apparatus,

provided always that in relation to a refusal under sub-paragraph (b) or any requirements requested pursuant to sub-paragraph (c) the undertaker shall be permitted to refer such matters to dispute resolution pursuant to paragraph 86 (arbitration).

(2) NGET must respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If NGET require further particulars, such particulars must be requested by NGET no later than 21 days from the submission of plans and thereafter NGET must employ reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.

73.—(1) The undertaker must give to NGET not less than 14 days' notice in writing of its intention to commence construction of any National Grid connection works and notice in writing of its completion not later than 7 days after the date on which it is completed and NGET will be entitled by its officer to watch and inspect the construction of such works.

(2) If any part of the grid connection works is constructed otherwise than in accordance with paragraph 71(2) above NGET may by notice in writing identify the extent to which the grid connection works do not comply with the approved details and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the requirements of paragraph 71(2) of this Schedule or such alternative works as may be agreed with NGET or as otherwise may be agreed between the parties.

(3) Subject to sub-paragraph (4), if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (2) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, NGET may execute the works specified in the notice and any reasonable expenditure incurred by NGET in so doing will be recoverable from the undertaker.

(4) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, NGET will not, except in the case of an emergency, exercise the powers conferred by subparagraph (3) until the dispute has been finally determined in accordance with paragraph 84.

On street apparatus

74. Except for paragraphs 75 (apparatus of NGET in stopped up streets), 80 (retained apparatus: protection of NGET), 81 (expenses) and 82 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of NGET, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and NGET are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of NGET in stopped up streets

75. Notwithstanding the temporary prohibition or restriction on use or diversion of any highway under the powers of article 13 (temporary prohibition or restriction on use of streets and public rights of way), NGET is at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction on use or diversion was in that street or public right of way.

Protective works to buildings

76. The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus or to the National Grid Navenby Substation without the written consent of NGET.

Acquisition of land

77.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or ((b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of NGET otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between NGET and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of NGET or affect the provisions of any enactment or agreement regulating the relations between NGET and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as NGET reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between NGET and the undertaker acting reasonably and which must be no less favourable on the whole to NGET unless otherwise agreed by NGET, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between NGET and the undertaker, the undertaker and NGET agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by NGET and/or other enactments relied upon by NGET as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) Any agreement or consent granted by NGET under paragraph 84 or any other paragraph of this Part of this Schedule, must not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

78.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of NGET to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of NGET in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to NGET advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order NGET reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to NGET to its satisfaction (taking into account paragraph 79(1) below) the necessary facilities and rights:

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such consents, facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, NGET must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary consents, facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for NGET to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between NGET and the undertaker.

(5) NGET must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to NGET of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

79.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for NGET facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National and must be no less favourable on the whole to NGET than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by NGET.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to NGET than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 86 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to NGET as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of NGET

80.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to NGET a plan of the works to be executed and seek from NGET details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to NGET under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regimes;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; -

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by NGET's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until NGET has given written approval of the plan so submitted.

(5) Any approval of NGET required under sub-paragraphs (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) may be given subject to such reasonable requirements as NGET may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the National Grid Navenby Substation; and

(c) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, NGET may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and NGET and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by NGET for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and NGET will be entitled to watch and inspect the execution of those works.

(8) Where NGET requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to NGET's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and NGET must give notice its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If NGET in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 67, 68, 74 and 77 to 79 apply as if the removal of the apparatus had been required by the undertaker under paragraph 78(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified

works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to NGET notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with NGET's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

81.—(1) Save where otherwise agreed in writing between NGET and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to NGET within 30 days of receipt of an itemised invoice or claim from NGET all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by NGET in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works (excluding the construction, maintenance and decommissioning of the National Grid Navenby Substation) including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by NGET in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by NGET as a consequence of NGET;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 78(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting NGET;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 86 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the

existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to NGET by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to NGET in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on NGET any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where anticipated charges, costs or expenses have been paid by the undertaker pursuant to sub-paragraph (1), if the actual charges, costs or expenses incurred by NGET are less than the amount already paid by the undertaker, NGET will repay the difference to the undertaker as soon as reasonably practicable.

Indemnity

82.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of NGET, or there is any interruption in any service provided, or in the supply of any goods, by NGET, or NGET becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from NGET the cost reasonably and properly incurred by NGET in making good such damage or restoring the supply; and

(b) indemnify NGET for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from NGET, by reason or in consequence of any such damage or interruption or NGET becoming liable to any third party and including STC claims or an incentive deduction other than arising from any default of NGET.

(2) The fact that any act or thing may have been done by NGET on behalf of the undertaker or in accordance with a plan approved by NGET or in accordance with any requirement of NGET or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless NGET fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of-

(a) any damage or interruption to the extent that it is attributable to the neglect or default of NGET, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by NGET as an assignee, transferee or lessee of the undertaker with the

benefit of the Order pursuant to section 156 of the 2008 Act or article 37 (consent to transfer the benefit of the Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-section 82(3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 82; and/or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) NGET must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) NGET must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) NGET must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within NGET's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of NGET's control and if reasonably requested to do so by the undertaker NGET must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by NGET or in respect of which NGET has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of NGET's apparatus until the following conditions are satisfied:

(a) unless and until NGET is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and NGET has confirmed the same to the undertaker in writing; and

(b) unless and until NGET is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to NGET that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and NGET has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-section 82(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent NGET from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

83. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between NGET and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and NGET in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

84.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or NGET requires the removal of apparatus under paragraph 78(2) or NGET makes requirements for the protection or alteration of apparatus under paragraph 80, the

undertaker shall use its best endeavours to coordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of NGET's undertaking and NGET will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever NGET's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

85. If in consequence of the agreement reached in accordance with paragraph 73(1) or the powers granted under this Order the access to any apparatus or the National Grid Navenby Substation is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or the National Grid Navenby Substation as will enable NGET to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

86. Save for differences or disputes arising under paragraph 78(2), 78(4) 79(1) and 80 any difference or dispute arising between the undertaker and NGET under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and NGET, be determined by arbitration in accordance with article 43 (arbitration).

Notices

87. Notwithstanding article 45 (service of notices), any plans submitted to NGET by the undertaker pursuant to paragraph 80 must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as NGET may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 8

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC

Application

88. For the protection of National Grid Electricity Distribution (East Midlands) plc the following provisions, unless otherwise agreed in writing between the undertaker and National Grid Electricity Distribution (East Midlands) plc, have effect.

Interpretation

89. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable NGED to fulfil its statutory functions in a manner not less efficient than previously and where the context requires includes any part of such alternative apparatus;

"alternative rights" means all and any necessary legal easements, leases, consents, or permissions required by NGED in order to permit or authorise a diversion and to permit or authorise NGED to lay, keep, operate, maintain, adjust, repair, alter, relay, renew, supplement, inspect, examine, test and remove the alternative apparatus;

"apparatus" means electric lines or electrical plant as defined in the 1989 Act(**a**), belonging to or maintained by NGED;

"diversion" means an alteration to the NGED Network in order to enable or facilitate the authorised development;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

"NGED" means National Grid Electricity Distribution (East Midlands) plc (Company No. 02366923) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB;

"NGED Network" means NGED's distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the 1989 Act;

"plan" or "plans" includes all designs, drawings, specifications, method statements, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"specified work" means so much of any of the authorised development that is carried out within 6 metres of any apparatus; and

other terms have the meaning given in article 2 (interpretation) of the Order.

Precedence of 1991 Act in respect of apparatus in streets

90. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and NGED are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition except by agreement

91. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

92.—(1) If, in the exercise of the powers conferred by this Order, the undertaker requires that apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of NGED to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, alternative rights acquired or granted for the alternative apparatus and the alternative apparatus is in operation and access to it has been provided if necessary to the reasonable satisfaction of NGED in accordance with sub-paragraphs (2) to ((10) or with such alternative or supplementary provisions as the undertaker and NGED may agree between them.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to NGED written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed.

(3) If as a direct consequence of the exercise of any of the powers conferred by this Order NGED reasonably needs to remove or divert any of its apparatus and the removal of that apparatus has not been required by the undertaker under sub-paragraph (2) then NGED must give to the undertaker written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and this Part has

(**a**) 1989 c. 29. The definition of "electricity plant" (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).

effect as if the removal or diversion of such apparatus had been required by the undertaker under sub-paragraph (2).

(4) If as a direct consequence of the removal or diversion of apparatus under sub-paragraph (2) or (3) alternative apparatus is to be constructed in land owned or controlled by the undertaker then the undertaker must afford to NGED the necessary facilities alternative rights and any necessary third party consent or approvals for the construction of alternative apparatus in the other land owned or controlled by the undertaker.

(5) If the undertaker or NGED requires to remove or divert any apparatus placed within the Order land and alternative apparatus is to be constructed in land not owned or controlled by the undertaker as a consequence of the removal or diversion of apparatus then NGED shall use its reasonable endeavours to obtain alternative rights in the land in which the alternative apparatus is to be constructed.

(6) If alternative apparatus is to be constructed in land not owned or controlled by the undertaker and NGED is unable to obtain such alternative rights as are mentioned in sub-paragraph (5), the undertaker and NGED shall consider whether there is an alternative engineering solution that can achieve the diversion without the need for the use of compulsory powers. Should such an alternative engineering solution not be practicable and deliverable in a reasonable timescale and at a reasonable cost (which shall be determined by the undertaker acting reasonably), NGED may but shall not be compelled to use the powers of compulsory acquisition set out in this Order or the 1989 Act to obtain the necessary facilities and rights in the land outside the Order limits in which the alternative apparatus is to be constructed in accordance with a timetable agreed between NGED and the undertaker.

(7) Any alternative apparatus required pursuant to sub-paragraphs (2) or (3) must be constructed in such manner and in such line or situation as may be agreed between NGED and the undertaker or in default of agreement settled in accordance with paragraph 97.

(8) NGED must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 97, and after the acquisition by or grant to NGED of any such facilities and alternative rights as are referred to in sub-paragraphs (2) to (6), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required to be removed by the undertaker under the provisions of this Part of this Schedule.

(9) Regardless of anything in sub-paragraph (8), if the undertaker gives notice in writing to NGED that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land owned or controlled by the undertaker, that work, instead of being executed by NGED, must be executed by the undertaker—

(a) in accordance with plans and specifications and in such line or situation agreed between the undertaker and NGED, or, in default of agreement, determined in accordance with paragraph 97; and

(b) without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of NGED.

(10) Nothing in sub-paragraph (9) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection of such apparatus or alternative apparatus.

Facilities and rights for alternative apparatus

93.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to NGED facilities and alternative rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and alternative rights must be granted upon such terms and conditions as must be agreed between the undertaker and NGED or in default of agreement settled in accordance with paragraph 97.

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker;

(b) have regard to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted;

(c) have regard to NGED's ability to fulfil its service obligations and comply with its licence conditions; and

(d) have regard to the standard form rights NGED ordinarily secures for the type of alternative apparatus to be constructed in the circumstances similar to the authorised development.

(3) If the facilities and alternative rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and alternative rights are to be granted, are in the opinion of the expert less favourable on the whole to NGED than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the expert must make such provision for the payment of compensation by the undertaker to NGED as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

94.—(1) Not less than 60 days before the undertaker intends to start the execution of any specified work where the removal of the apparatus in question has not been required under paragraph 92, the undertaker shall submit to NGED a plan of the specified works to be executed. Any submission must note the time limits imposed on NGED under sub-paragraph (3) below.

(2) Subject to sub-paragraph (3) below the undertaker shall not commence any works to which sub-paragraph (1) applies until NGED has identified any reasonable requirements it has for the alteration or protection of the apparatus, or for securing access to it.

(3) If by the expiry of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted NGED has not advised the undertaker in writing of any reasonable requirements for the alteration or protection of the apparatus, or for securing access to it, it shall be deemed not to have any such requirements and the undertaker shall be at liberty to proceed with the specified works.

(4) The specified works referred to in sub-paragraph (1) must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by NGED and NGED shall be entitled to watch and inspect the execution of those works.

(5) At all times when carrying out the authorised development the undertaker must comply with NGED's *Avoidance of Danger from Electricity Overhead Lines and Underground Cables* (2014), the Energy Network Association's *A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines* (undated), the Health and Safety Executive's *GS6 Avoiding Danger from Overhead Power Lines* and the Health and Safety Executive's *HSG47 Avoiding Danger from Underground Services (Third Edition)* (2014) as the same may be replaced from time to time.

(6) If NGED, in accordance with sub–paragraph (2) and in consequence of the specified works proposed by the undertaker, reasonably requires the removal or diversion of any apparatus and gives written notice to the undertaker of that requirement, this Part of this Schedule applies as if the removal or diversion of the apparatus had been required by the undertaker under paragraph 92(2).

(7) Nothing in this paragraph 94 precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 days before commencing the execution of any specified works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(8) The undertaker is not required to comply with sub–paragraph (1) in a case of emergency but in that case it must give to NGED notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements stipulated by NGED under sub-paragraph (2) and with sub–paragraphs (4) and (5) in so far as is reasonably practicable in the circumstances. Nothing in this sub-paragraph prevents NGED from exercising its rights under sub-paragraph (6).

Expenses and costs

95.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to NGED the proper and reasonable expenses reasonably incurred by NGED in, or in connection with, the inspection, removal, diversion, alteration or protection of any apparatus, the construction of any alternative apparatus and the acquisition or grant of alternative rights for the alternative apparatus, arising as a result of the powers conferred upon the undertaker pursuant to this Order.

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule NGED requires that alternative apparatus of better type, of greater capacity, of greater dimensions or at a greater depth is necessary in substitution for existing apparatus which for NGED's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development, NGED shall reduce the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph (1).

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

Liability

96.—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those works any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of NGED the undertaker is to—

(a) bear and pay the cost reasonably incurred by NGED in making good such damage or restoring the supply; and

(b) reimburse NGED for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by NGED, by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of NGED, its officers, servants, contractors or agents.

(3) NGED must give the undertaker reasonable notice of any third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection

with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(4) NGED must act reasonably in relation to any claim or demand served under sub-paragraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, claims, demands, proceedings and penalties to which a claim or demand under sub-paragraph (1) applies.

(5) NGED's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and NGED shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

Expert determination

97.—(1) Article 43 (arbitration) shall apply to any difference as to the legal interpretation of this Part of this Schedule and as provided for in sub-paragraph (7).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between NGED and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of NGED and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

(a) invite the parties to make submissions to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant—

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;

(e) NGED's service obligations and licence conditions; and

(f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 43.

PART 9

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

Application

98. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

99. In this Part of this Schedule—

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipes, pressure governors, ventilators, cathodic protections, (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to or maintained by Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised development" has the same meaning as in article 2 (interpretation) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Cadent's undertaking" means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

"commence" has the same meaning as in article 2 of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule only the terms commence and commencement include operations for the purposes of intrusive archaeological or intrusive ecological investigations and intrusive investigations of the existing condition of the ground or of structures;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" includes notwithstanding article 2 of the Order, the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"rights" includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any part of the authorised development or activities (including maintenance) undertaken in association with the authorised development which:

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 104(2) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 104(2) or otherwise; and/or

(c) include any of the activities that are referred to in CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets); and

"undertaker" means the undertaker as defined in article 2 of this Order.

On Street Apparatus

100.—(1) Except for paragraphs 101, 104 in so far as sub-paragraph (2) applies, 105 in so far as sub-paragraph (2) below applies, 106, 107 and 108 of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 104 and 105 of this Part of this Schedule apply to diversions even where carried out under the 1991 Act, in circumstances This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 13 (temporary prohibition or restriction on use of streets and public rights of way) or any other powers in the Order generally, s85 of the 1991 Act in relation to cost sharing and the regulations made thereunder does not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Apparatus of Cadent in stopped up streets

101.—(1) Notwithstanding the temporary prohibition, diversion or restriction of any highway under the powers of article 13 (temporary prohibition or restriction on use of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access across any such prohibited or restricted highway or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary prohibition, diversion or restriction in respect of any apparatus which at the time of the prohibition, diversion or restriction was in that highway.

(2) The Protective Provisions in this Part of this Schedule apply and take precedence over article 34 (apparatus and rights of statutory undertakers in closed or restricted streets) of the Order which do not apply to Cadent.

Protective works to buildings

102.—(1) The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed).

Acquisition of land

103.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 106 or any other paragraph of this Part of this Schedule, do not constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where the undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 104 do not apply, the undertaker must:

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

104.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 103 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the

rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph 105(1) below) the necessary facilities and rights:

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

105.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 112 of this Part of this Schedule and the arbitrator will make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

106.—(1) Not less than 56 days (or such time period as may be agreed in writing between Cadent and the undertaker) before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,

(b) must not be unreasonably withheld or delayed.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of the authorised development (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 98 to 100 and 103 to 105 apply as if the removal of the apparatus had been required by the undertaker under paragraph 104(2) provided that such written notice must be given by Cadent as part of the approval of a plan pursuant to this paragraph (except in an emergency).

(9) Nothing in this paragraph 106 precludes the undertaker from submitting:

(a) an amendment to any plan previously approved by Cadent for the agreement of Cadent; or

(b) a new plan pursuant to sub-paragraph (1) instead of the plan previously submitted and approved by Cadent not less than 56 days (or such other time period as may be agreed in writing between Cadent and the undertaker) before the commencement of any specified works, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus "CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 107.

Expenses

107.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development as are referred to in this Part of this Schedule including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;

(i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 104(3) if it elects to do so; and/or

(ii) exercising any compulsory purchase powers in this Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and

(g) any watching brief pursuant to sub-paragraph 106(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

108.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any act, neglect or default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or in a manner as may otherwise be agreed between the undertaker and Cadent.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of-

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and

(b) the authorised development and/or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 37 (consent to transfer the benefit of the order) subject to the proviso that once such works become apparatus ("new apparatus"), any specified works yet to be executed and not falling within this sub-section (b) will be subject to the full terms of this Part of this Schedule including this paragraph 108.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability, or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the promoter and considering its representations.

Enactments and agreements

109. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

110.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 104(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 106, the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

Access

111. If in consequence of any agreement reached in accordance with paragraph 103(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

112. Save for differences or disputes arising under sub-paragraphs 104(2), 104(4), 105(1) and paragraph 106 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 43 (arbitration).

Notices

113. The plans submitted to Cadent by the undertaker pursuant to paragraph 106(1) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to landservices@cadentgas.com and sent to the General Counsel Department at Cadent's

registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

PART 10

FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LTD

Application

114. For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

In this Part of this Schedule, the following terms have the following meanings—

"Additional Rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of retained Apparatus including any restrictions on the landowner and occupiers for the protection of the retained Apparatus and to allow Exolum to perform its functions.

"Alternative Apparatus" means alternative apparatus adequate to enable Exolum to fulfil its functions as a pipeline operator in a manner not less efficient than previously.

"Alternative Rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of Alternative Apparatus including any restrictions on the landowner and occupiers for the protection of the Alternative Apparatus and to allow Exolum to perform its functions.

"Apparatus" means the pipeline and storage system and any ancillary apparatus owned or operated by Exolum and includes:

(a) any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

(b) any ancillary works, all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers;

(c) such legal interest, and benefit of property rights and covenants as are vested in in respect of these items;

and, where the context requires, includes Alternative Apparatus.

"Exolum" means Exolum Pipeline System Ltd (company registration number 09497223 whose registered office is 1st Floor 55 King William Street, London, England, EC4R 9AD) and for the purpose only of enforcing the benefit of any provisions in this Part of this Schedule, any group company of Exolum Pipeline System Ltd and in all cases any successor in title.

"functions" includes powers, duties and commercial undertaking.

"in" in a context referring to Apparatus in land includes a reference to Apparatus under, over or upon land.

"Plan" includes all designs, drawings, sections, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to allow Exolum to assess the relevant works to be executed properly and sufficiently and in particular must describe:

(d) the position of the works as proposed to be constructed or renewed;

(e) the level at which the works are proposed to be constructed or renewed;

(f) the manner of the works' construction or renewal including details of excavation, positioning of plant etc.;

(g) the position of the affected Apparatus and/or Premises and any other apparatus belonging to another undertaker that may also be affected by the Restricted Works;

(h) by way of detailed drawings, every alteration proposed to be made to or close to any such Apparatus;

(i) any intended maintenance regime;

(j) details of the proposed method of working and timing of execution of works; and

(k) details of vehicle access routes for construction and operational traffic.

"Premises" means land that Exolum owns, occupies or otherwise has rights to use including but not limited to storage facilities, administrative buildings and jetties.

"Protective Works" means works for the inspection and protection of Apparatus.

"Restricted Works" means any works that are near to, or will or may affect any Apparatus or Premises including:

(l) all works within 15 metres measured in any direction of any Apparatus including embankment works and those that involve a physical connection or attachment to any Apparatus,

(m) the crossing of Apparatus by other utilities,

(n) the use of explosives within 400 metres of any Apparatus,

(o) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any Apparatus,

(p) all works that impose a load directly upon the Apparatus, wherever situated,

whether carried out by the undertaker or any third party in connection with the Authorised Development.

Acquisition of apparatus

115.—(1) Regardless of any other provision in the Order or anything shown on the land plans—

(a) the undertaker must not, otherwise than by agreement with Exolum, acquire any Apparatus, Exolum's rights in respect of Apparatus or any of Exolum's interests in the Order land;

(b) where the undertaker acquires the freehold of any land in which Exolum holds an interest, the undertaker must afford to or secure for Exolum such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights). Unless otherwise agreed between the undertaker an Exolum, these replacement rights must be granted upon substantially the same terms and conditions as the right to be extinguished, must be no less favourable than the right to be extinguished, and must be granted or put in place contemporaneously with the extinguishment of the right which they replace;

(c) the undertaker must not, otherwise than in accordance with this Part of this Schedule—

(i) obstruct or render less convenient the access to any Apparatus or Premises;

(ii) interfere with or affect Exolum's ability to carry out its functions as an oil pipeline operator;

(iii) require that Apparatus is relocated or diverted; or

(iv) remove or required to be removed any Apparatus;

(d) any right of Exolum to maintain, repair, renew, adjust, alter or inspect Apparatus must not be extinguished by the undertaker until any necessary Alternative Apparatus has been constructed and it is in operation and the Alternative Rights have been granted, all to the reasonable satisfaction of Exolum; and

(e) any right of Exolum to access the Exolum operations must not be extinguished until necessary alternative access has been provided to Exolum's reasonable satisfaction.

(2) Prior to the carrying out of any Restricted Works or any works authorised by this Order that will affect the Apparatus, and if required by Exolum, the parties must use their reasonable endeavours to negotiate and enter into such deeds of consent (crossing consent) and (if considered

necessary) variations to the existing rights upon such terms and conditions as may be agreed between Exolum and the undertaker acting reasonably and which must be no less favourable on the whole to Exolum than this Part of this Schedule, and the undertaker will use all reasonable endeavours to procure and / or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such works.

(3) Where the undertaker acquires land which is subject to any existing rights and the provisions of paragraph 116 do not apply, the undertaker must—

(a) retain any notice of the existing rights of Exolum on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of the existing rights or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with an application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of the existing rights or other interest in relation to such acquired land; and

(c) provide up to date official entry copies to Exolum within 20 working days of receipt of such up to date official entry copies.

(4) Where the undertaker takes temporary possession of any land or carries out survey works on land in respect of which Exolum has Apparatus or Premises—

(a) where reasonably necessary, Exolum may exercise its rights to access such land—

(i) in an emergency, without notice; and

(ii) in non-emergency circumstances, having first given not less than 14 days' written notice to the undertaker in order to allow the parties to agree the timing of their respective works during the period of temporary possession; and

(b) the undertaker must not remove or in any way alter Exolum's rights in such land, unless in accordance with the provisions of this Order.

Removal of apparatus and rights for alternative apparatus

116.—(1) If, having used all reasonable endeavours to implement the Authorised Development without the removal of any Apparatus—

(a) the undertaker reasonably requires the removal of any Apparatus; or

(b) Exolum reasonably requires the removal of any Apparatus;

then the relevant party must give written notice of that requirement to the other.

(2) The parties must use their reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of the Alternative Apparatus to be provided or constructed.

(3) The undertaker must afford to Exolum the necessary facilities and rights for the construction of Alternative Apparatus and subsequently the grant of Alternative Rights in accordance with paragraphs 117(1) to 117(5).

(4) Any Alternative Apparatus is to be constructed in land owned by the undertaker or in land in respect of which Alternative Rights have been or are guaranteed to be granted to Exolum. The Alternative Apparatus shall be constructed in such manner and in such line or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(5) After the details for the works for Alternative Apparatus to be provided or constructed have been agreed or settled in accordance with article 43, and after the grant to Exolum of any such facilities and rights as are referred to in sub-paragraph (3), Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the Alternative Apparatus and subsequently to remove (or if agreed between the parties to allow the undertaker to remove) any redundant Apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) The following sub-paragraphs (7) and (8) only apply if:

(a) Exolum fails to comply with its obligations under paragraph 10 to remove any redundant Apparatus; and

(b) the undertaker has served notice on Exolum specifying the default; and

(c) Exolum has failed to remedy the default within 28 days.

(7) In the circumstances set out in sub-paragraph (6), if the undertaker then gives notice in writing to Exolum that it desires itself to remove the redundant Apparatus, that work, instead of being executed by Exolum, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Exolum.

(8) Nothing in sub-paragraph (7) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any Apparatus, or execute any filling around the Apparatus (where the Apparatus is laid in a trench) within 3000 millimetres of the Apparatus unless that Apparatus is redundant and disconnected from Exolum's remaining system.

Facilities and rights for alternative apparatus

117.—(1) Where, in accordance with the provisions of this Schedule, the undertaker affords to Exolum facilities and rights for the construction of Alternative Apparatus and the grant of Alternative Rights, in substitution for Apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Exolum in accordance with this Part of this Schedule or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(2) Alternative Rights must be granted before any Alternative Apparatus is brought into use.

(3) The parties agree that the undertaker must use all reasonable endeavours to procure the grant of the Alternative Rights by way of a 999 year sub-soil lease, substantially in the form of Exolum's precedent from time to time as amended by written agreement between the parties acting reasonably, or such other form of agreement as the parties otherwise agree acting reasonably.

(4) Nothing in this Schedule or contained in the Alternative Rights requires Exolum to divert or remove any Alternative Apparatus.

(5) If the facilities and rights to be afforded by the undertaker in respect of any Alternative Apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of Exolum less favourable on the whole to Exolum than the facilities and rights enjoyed by it in respect of the Apparatus to be removed and the terms and conditions to which those facilities and rights are subject, Exolum may refer the matter to arbitration in accordance with article 43.

Retained apparatus and alternative apparatus: protection

118.—(1) Before commencing the execution of any Restricted Works, the undertaker must submit to Exolum a Plan of the works to be executed and any other information that Exolum may reasonably require to allow Exolum to assess the works.

(2) No Restricted Works are to be commenced until the Plan to be submitted to Exolum under sub-paragraph (1) has been approved by Exolum in writing (acting reasonably) and are to be carried out only in accordance with the details submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with sub-paragraph (3) by Exolum.

(3) Any approval of Exolum in respect of Restricted Works may be given subject to such reasonable requirements as Exolum may require to be made for—

(a) the continuing safety and operational viability of any Apparatus;

(b) the requirement for Exolum to have reasonable access with or without vehicles to inspect, repair, replace, maintain and ensure the continuing safety and operation or viability of any Apparatus and/or Premises; and

(c) the requirement for Exolum to be entitled to watch and inspect the execution of Restricted Works to ensure the continuing safety and operational viability of any Apparatus and ensure compliance with the agreed Plan;

providing such reasonable requirements will be notified to the undertaker in writing.

(4) Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement for the carrying out of Protective Works or the installation of Alternative Apparatus.

(5) If in consequence of the works notified to Exolum by the undertaker under sub-paragraph (1), the circumstances in paragraph 116(2) apply, then the parties must follow the procedure in paragraph 116(2) onwards.

(6) Nothing in sub-paragraphs (1) to (5) precludes the undertaker from submitting prior to the commencement of works to protect retained Apparatus or to construct Alternative Apparatus (unless otherwise agreed in writing between the undertaker and Exolum) a new Plan, instead of the Plan previously submitted, in which case the parties must re-run the procedure from sub-paragraph (1) onwards.

(7) Where Exolum reasonably requires Protective Works, the parties must use their reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of any physical features to be provided or constructed.

(8) The undertaker must afford to Exolum the necessary facilities and rights for the construction of Protective Works and subsequently the grant of Additional Rights in accordance with paragraphs 117(1) to 117(5).

(9) Any Protective Works are to be constructed in land owned by the undertaker or in land in respect of which Alternative Rights have been or are guaranteed to be granted to Exolum. The Protective Works must be constructed in such manner and in such line or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(10) After the details for the Protective Works to be provided or constructed have been agreed or settled in accordance with article 43, and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 116(3), Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the Protective Works.

Cathodic protection testing

119.—(1) Where in the reasonable opinion of Exolum or the undertaker—

(a) the Authorised Development might interfere with the cathodic protection forming part of Apparatus; or

(b) any Apparatus might interfere with the proposed or existing cathodic protection forming part of the Authorised Development,

Exolum and the undertaker must co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

(2) The Parties must carry out the works and enter into such agreements as are necessary to implement the measures for providing or preserving cathodic protection.

Expenses

120.—(1) Subject to the following provisions of this paragraph 120, the undertaker must pay to Exolum the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by Exolum in, or in connection with—

(a) the negotiation of the provisions of this Schedule;

(b) undertaking its obligations under this Schedule including:

(i) the installation, inspection, removal, alteration, testing or protection of any Apparatus, Alternative Apparatus and Protective Works;

(ii) the execution of any other works under this Schedule; and

(iii) the review and assessment of Plans;

(c) the watching of and inspecting the execution of the Authorised Development, any Restricted Works and any works undertaken by third parties as a result of Authorised Development (including the assessment of Plans); and

(d) imposing reasonable requirements for the protection or alteration of Apparatus affected by the Authorised Development or works as a consequence of the Authorised Development in accordance with paragraph 118(3);

together with any administrative costs properly and reasonably incurred by Exolum, provided that none of the above shall make the undertaker liable for costs in relation to any work which Exolum would be expected to undertake as part of its standard business operations.

(2) There will be no deduction from any sum payable under sub-paragraph (1) as a result of—

(a) the placing of apparatus of a better type, greater capacity or of greater dimensions, or at a greater depth than the existing Apparatus, to the extent Exolum has acted reasonably in procuring such apparatus;

(b) the placing of apparatus in substitution of the existing Apparatus that may defer the time for renewal of the existing Apparatus in the ordinary course; or

(c) the scrap value (if any) of any Apparatus removed.

(3) Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Exolum, the undertaker shall pay Exolum sufficiently in advance to enable Exolum to undertake its obligations under this Schedule in a manner that is neutral to its cash flow provided that in the event that the costs incurred by Exolum are less than the amount paid by the undertaker pursuant to this sub-paragraph (3) then Exolum must within 35 days of payment being made by Exolum for the costs anticipated in the costs and expenses estimates, repay any overpayment to the undertaker.

Damage to property and other losses

121.—(1) Subject to sub-paragraphs (2) to (6), the undertaker shall:

(a) indemnify Exolum for all reasonably incurred loss, damage, liability, costs and expenses suffered or reasonably incurred by Exolum including but not limited to claims against Exolum made pursuant to the Energy Act 2013 as amended arising out of—

(i) the carrying out of works under this Schedule;

(ii) the carrying out of the Authorised Development;

(iii) the use or occupation of land over or in the vicinity of any Apparatus or in the vicinity of any Premises in connection with the carrying out of the Authorised Development;

(iv) any injury or damage whatsoever to any property, real or personal, including the property of Exolum; and

(v) any matters arising out of or in connection with this Order;

(b) indemnify Exolum against any claim made against, or loss suffered by, Exolum as a result of any act or omission committed by the undertaker's officers, employees, contractors or agents whilst on or in the vicinity of any Apparatus or Premises for the purposes of carrying out any activity authorised by this Order;

(c) pay to Exolum, in accordance with the terms of the provisions of this Part of this Schedule, the cost reasonably incurred by Exolum in making good any damage to the Apparatus (other than Apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) arising out of the carrying out of works under this Schedule and arising out of the carrying out of the Authorised Development; and

(d) pay to Exolum the cost reasonably incurred by Exolum in stopping, suspending and restoring the supply though its Apparatus in consequence of the carrying out of works under this Schedule or the carrying out of the Authorised Development;

and make reasonable compensation to Exolum for any other expenses, losses, damages, penalty or costs incurred by Exolum by reason or in consequence of any such damage or interruption including all claims by third parties.

(2) The fact that any act or thing may have been done by Exolum on behalf of the undertaker or in accordance with a Plan approved by Exolum or in accordance with any requirement of Exolum or under its supervision shall not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the negligent act, neglect or default of Exolum, its officers, servants, contractors or agents.

(4) The undertaker and Exolum shall at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers in connection with this Schedule.

(5) The undertaker warrants that it will use reasonable endeavours to ensure—

(a) the information it or any of its employees, agents or contractors provide to Exolum about the Plans or the Authorised Development and on which Exolum relies in the design of and carrying out of any works is accurate; and

(b) the undertaker or any of its employees, agents or contractors have exercised all the reasonable skill, care and diligence to be expected of a qualified and experienced member of their respective profession.

(6) Exolum must give to the undertaker reasonable notice of any such claim or demand to which sub-paragraph (1) applies.

Insurance

122.—(1) The undertaker must not carry out any Restricted Works unless and until Exolum has confirmed to the undertaker in writing that it is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker (or its contractor) has procured acceptable professional indemnity insurance and public liability insurance with minimum cover of £25 million per event, with respect to the carrying out of the works.

(2) The undertaker shall maintain such insurance for the construction period of the any Restrictive Works from the proposed date of Commencement of such works.

Co-operation and reasonableness

123.—(1) Where Apparatus is required to be protected, altered, diverted or removed under this Schedule, the undertaker must use all reasonable endeavours to co-ordinate the execution of any works under this Part of this Schedule—

(a) in the interests of safety;

(b) in the interest of the efficient and economic execution of both Exolum's works and the Authorised Development; and

(c) taking into account the need to ensure the safe and efficient operation of the Apparatus and carrying out of Exolum's functions.

(2) Exolum must use its reasonable endeavours to co-operate with the undertaker for the purposes outlined in sub-paragraph (1).

(3) The undertaker and Exolum will act reasonably in respect of any given term of this Schedule and, in particular, (without prejudice to generality) where any approval, consent or expression of satisfaction is required by this Part of this Schedule it must not be unreasonably withheld or delayed.

Emergency circumstances

124.—(1) The undertaker acknowledges that Exolum provides services to His Majesty's Government, using the Apparatus, which may affect any works to be carried under this Schedule and the Authorised Development.

(2) In the following circumstances, Exolum may on written notice to the undertaker immediately suspend all works that necessitate the stopping or suspending of the supply of product through any Apparatus under this Schedule and Exolum shall not be in breach of its obligations under this Schedule—

(a) circumstances in which, in the determination of the Government, there subsists a material threat to national security, or a threat or state of hostility or war or other crisis or national emergency (whether or not involving hostility or war); or

(b) circumstances in which a request has been received, and a decision to act upon such request has been taken, by the Government for assistance in relation to the occurrence or anticipated occurrence of a major accident, crisis or natural disaster; or

(c) circumstances in which a request has been received from or on behalf of NATO, the EU, the UN, the International Energy Agency (or any successor agency thereof) or the government of any other state for support or assistance pursuant to the United Kingdom's international obligations and a decision to act upon such request has been taken by the Government; or

(d) any circumstances identified as such by the COBRA committee of the Government (or any successor committee thereof); or

(e) any situation in connection with which the Government requires fuel capacity, including where the United Kingdom is engaged in any planned or unplanned military operations within the United Kingdom or overseas.

(3) The parties agree to act in good faith and in all reasonableness to agree any revisions to any schedule, programme or costs estimate (which shall include costs of demobilising and remobilising any workforce, and any costs to protect the Apparatus "mid-works") to account for the suspension.

(4) Exolum shall not be liable for any costs, expenses, losses or liabilities the undertaker incurs as a result of the suspension of any activities under sub-paragraphs (2) to (3) or delays caused by it.

Dispute resolution

125.—(1) The undertaker and Exolum must use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Part of this Schedule in accordance with the following provisions.

(2) The undertaker and Exolum must each nominate a representative who will meet to try to resolve the matter. If the matter is not resolved at that level within ten working days of either the undertaker or Exolum requesting such a meeting (or such longer period as may be agreed between the undertaker and Exolum) the matter may at the request of either the undertaker or Exolum be referred for discussion at a meeting to be attended by a senior executive from each party.

(3) If the meeting between senior executives fails to result in a settlement within 20 working days of the date of the request for such a meeting (or if it is not possible to convene a meeting within this period) unless otherwise agreed in writing between the undertaker and Exolum, the dispute or difference will be determined by arbitration in accordance with article 43 (arbitration).

Miscellaneous

126. No failure or delay by a party to exercise any right or remedy provided under this Part of this Schedule or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial

exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

PART 11

FOR THE PROTECTION OF BRITISH TELECOMMUNICATIONS PLC

127. For the protection of any operator, referred to in this Part of this Schedule, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

128. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code(**b**);

"the electronic communications code" has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act(**c**);

"electronic communications code network" means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

"infrastructure system" has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

"operator" means the operator of an electronic communications code network.

129. The exercise of the powers conferred by article 33 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

130.—(1) Subject to sub-paragraphs (2) to (3), if as a result of the authorised development or its construction, or of any subsidence resulting from any of the authorised development—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other reasonable expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(**a**) 2003 c.21
(**b**) See section 106. Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c.30)
(**c**) See section 106. Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c.30)

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and if such consent, is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

131. Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 43 (arbitration).

132. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

133. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

SCHEDULE 16

Article 46

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

1. In this Schedule—

"requirement consultee" means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

"start date" means the date of the notification given by the Secretary of State under paragraph 4(2)(c).

Applications made under requirement

2.—(1) For an application for discharge of a requirement to be valid, the undertaker must provide the following information to the relevant planning authority electronically via email (unless otherwise agreed between the parties)—

(a) a covering letter which includes confirmation of the requirement to which the submission relates;

(b) 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;

(c) confirmation that the application has been notified and provided to the requirement consultees in accordance with sub-paragraph (5), if the provision governing or requiring the application specifies that consultation with a requirement consultee is required. Such confirmation to include contact details for the requirement consultees;

(d) the respective detailed management plan, drawing or other written information to discharge the requirement as required by the requirement; and

(e) payment of the discharge of requirement application fee in accordance with paragraph (5).

(2) Where a valid application has been made to the relevant planning authority for any discharge, the relevant planning authority must give notice to the undertaker of its decision on the application within a period of ten weeks beginning with the later of—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3; or

(c) such longer period that is agreed in writing by the undertaker and the relevant planning authority.

(3) Subject to paragraph 4, in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (2) and is accompanied by a report pursuant to sub-paragraph (2)(b) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

(5) At the same time as submitting an application to the relevant planning authority for any consent, agreement or approval required by a requirement, the undertaker must also give notice of such application, and provide a copy of the application electronically via email (unless otherwise agreed between the parties), to any requirement consultee, if the provision governing or requiring the application specifies that consultation with a requirement consultee is required. As part of the notification to any requirement consultee, the undertaker must include a statement that refers to:

(a) the timeframes in which the requirement consultee can request any further information from the undertaker (via the relevant planning authority) as prescribed in paragraph 3(7)(a) and the consequences of the failure to meet those timescales as prescribed in paragraph 3(7)(b); and

(b) the timeframes in which the requirement consultee must give notice to the relevant planning authority of its comments on the application as prescribed in paragraph 3(7)(d) and the consequences of the failure to meet those timescales as prescribed in paragraph 3(7)(e).

Further information and consultation

3.—(1) In relation to any application made under paragraph 2(2), the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such reasonable further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within 15 working days of receipt of the application, notify the undertaker in writing specifying the reasonable further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must notify the undertaker in writing specifying any reasonable further information the relevant planning authority considers necessary or that is requested by the requirement consultee within 20 working days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating time periods in paragraph 2 and paragraph 3.

(6) Where further information is requested under this paragraph and provided by the undertaker, any notification reasonably given by the relevant planning authority that the information provided is inadequate and requesting additional information must be received by the undertaker within five working days, or such longer period as is agreed (including where the quantity of information is substantial or requirement consultees are involved) of the day on which the undertaker has provided the further information in response to the original request, and where no such notification is received the relevant planning authority is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(7) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required:

(a) A requirement consultee is required to notify the relevant planning authority in writing specifying any reasonable further information it considers necessary in order to comment on the application within 15 working days of receipt of the application pursuant to paragraph 2(5);

(b) If a requirement consultee does not give notification as specified in sub-paragraph (a) it is deemed to have sufficient information to comment on the application and is not thereafter entitled to request further information without the prior agreement of the undertaker and relevant planning authority;

(c) At the same time as providing any further information to the relevant planning authority pursuant to a request under paragraph (2), if the undertaker has been notified of further information requested by a requirement consultee, the undertaker must also give any further information to the requirement consultee;

(d) A requirement consultee is required to notify the relevant planning authority in writing of any comments on the application within 15 working days of receipt of the application from the undertaker pursuant to paragraph 2(5), or the receipt of any further information pursuant to sub-paragraph (c) (where further information has been requested); and

(e) If a requirement consultee does not give notification as specified in sub-paragraph (d) it is deemed to have no comments on the application.

Appeals

4.—(1) The undertaker may appeal in the event that—

(a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;

(b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(4);

(c) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not reasonably required or not necessary for consideration of the application; or

(d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not reasonably required or not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

(a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or the determination, or (where no determination has been made) the expiry of the time period set out in paragraph 2(2), giving rise to the appeal referred to in sub-paragraph (1);

(b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee;

(c) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person's attention should be sent;

(d) a person appointed pursuant to sub-paragraph (c) must-

(i) be a person who is professionally qualified to express an opinion on the subject matter of the appeal;

(ii) act objectively and independently of the parties who are involved in the appeal or who have appointed the person to determine the appeal; and

(iii) conduct themselves in compliance with any relevant code of practice adopted by any professional body of which they are a member;

(e) the relevant planning authority and any requirement consultee must submit written representations to the appointed person in respect of the appeal within 10 working days of

the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(f) the undertaker may make any counter-submissions to the appointed person within 10 working days of receipt of written representations pursuant to sub-paragraph (e);

(g) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (f); and

(h) the appointment of the person pursuant to sub-paragraph (c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal they must, within five working days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the relevant party to the appointed person and the other appeal parties on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 working days of the specified date, but otherwise the process and time limits set out in sub-paragraphs (2)(e) to (2)(g) of sub-paragraph (2) apply.

(5) The appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to them in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside of the relevant time limits.

(7) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to them that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is to be final and binding on the parties, unless proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to advice on planning appeals and award costs published in Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

Fees

5.—(1) Where an application is made to the relevant planning authority for a discharge, a fee is to apply and must be paid to the relevant planning authority for each application.

(2) The fee payable for each application under sub-paragraph (1) is as follows—

(a) a fee of £2,578 for the first application for the discharge of each of the requirements 5 (detailed design approval), 7 (battery safety management), 8 (landscape and ecology management plan), 10 (drainage), 12 (construction environmental management plan), 13 (operational environmental management plan), 14 (construction traffic management plan), 18 (soil management plan) and 19 (decommissioning and restoration);

(b) a fee of £588 for each subsequent application for the discharge of each of the requirements listed in paragraph (a) and any application under requirement 5 in respect of the requirements listed in paragraph (a); and

(c) a fee of £298 for any application for the discharge of—

(i) any other requirements not listed in paragraph (a);

(ii) any application under requirement 4 (requirement for written approval) in respect of requirements not listed in paragraph (a); and

(iii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.

(3) Where an application under sub-paragraph (1) is made and a fee payable on or after 1 April 2025, then section 18A of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended by the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits (England) Amendment Regulations 2023) will apply as modified by this Order, so that "the relevant amount" means the fee payable under sub paragraph (2)(a), (2)(b) or (2)(c) above.

(4) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—

(a) the application being rejected as invalidly made; or

(b) the relevant planning authority failing to determine the application within the relevant period in paragraph 2(3) unless—

(i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or

(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2(3) of this Schedule, as applicable.

Pre-application engagement

6. Where the undertaker engages with the relevant planning authority or requirement consultee ahead of submitting an application pursuant to paragraph 2(2) by providing a draft version of documents proposed to be submitted with such application, the relevant planning authority or requirement consultee (as relevant) must, within 15 working days of receipt of the draft documents (or such other period as is agreed in writing between the undertaker and the relevant planning authority or requirement consultee (as relevant)), notify the undertaker of comments on the draft documents either by email or in a meeting, and the undertaker will note this timescale in its correspondence providing any draft documents to the relevant planning authority or requirement consultee (as relevant).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Springwell Energy farm Limited (referred to in this Order as the undertaker) to construct, operate, maintain and decommission a ground mounted solar photovoltaic generating station with a gross electrical output capacity over 50 megawatts and associated development. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in the Order and certified in accordance with article 42 (certification of plans and documents, etc) of this Order may be inspected free of charge during working hours at North Kesteven District Council, District Council Offices, Kesteven Street, Sleaford, Lincolnshire, NG34 7EF and at Lincolnshire County Council, County Offices, Newland, Lincoln, LN1 1YL.