



**Application by Fosse Green Energy Ltd for an order granting development consent
for the Fosse Green Energy solar farm**

**Deadline 3 –
Response to Examining Authority’s
Second Written Question LR.2.01**

prepared by

North Kesteven District Council

(ID [REDACTED])

NKDC reference: 23/0325/NSIP

Planning Inspectorate reference: EN010154

March 17th 2026

Introduction

1. This document is the response by North Kesteven District Council to (ExQ2) LR.2.01 which reads as follows:

Clarification as to whether any of the land included in the Order Limits for the proposed development should be considered as being commons or open spaces for the purposes of s131 and/or s132 of the Planning Act 2008 (PA2008)

*The ExA notes the Council's reply to ExQ1 LR.1.03 in [REP2-045] advising of its intention to provide a full reply at Deadline 3. With respect to the applicant's seeking of compulsory acquisition (CA) powers and the very particular implications there would be for applicant should any of the land it is seeking CA powers over be special category land for the purposes of s131 and/or s132 of the PA2008, the Council must submit a full response to ExQ1 **no later than Deadline 3**. Notwithstanding the requirement to respond to this question by no later than Deadline 3, should the Council reach the view as part of its investigations that any of the land subject to the CA powers sought by the applicant constitutes special category land for the purposes of s131 and/or s132 that information should be communicated to the applicant as soon as possible in advance of Deadline 3.*

Background

2. Section 131 of the Planning Act 2008 applies to '*... land forming part of a common, open space or fuel or field garden allotment*', which are further defined as having the same meanings as in section 19(4) of the Acquisition of Land Act 1981 which in turn reads as follows:
 - *"common" includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green,*
 - *"fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act,*
 - *"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.*

NKDC Response

3. The Council has looked into this matter and reports its findings as follows.

Town and Village Greens

4. Lincolnshire County Council (LCC) holds a register of land forming town or village greens. NKDC forwarded the Location Plan (Rev 3) AS-108 to the

relevant part of the County Council, asking if any of the land is a registered town or village green. LCC has confirmed that none of the land contains any registered town or village green.

Commons (other than town or village greens) and fuel or field garden allotments

5. NKDC does not hold a register of commons or fuel or field garden allotments. After enquiring, the section of LCC which keeps the register of town and village greens has also stated that they do not hold information relating to fuel or field garden allotments.
6. It is NKDC's understanding that commons, and fuel or field garden allotments (as defined in section 19(4) of the Acquisition of Land Act 1981) relate to Inclosure Acts. Records of Inclosure Acts are held by the Lincolnshire Archives which are operated by LCC and located at St Rumbold Street, Lincoln, LN2 5AB. Information regarding Inclosure Acts may also be obtained via the National Archives at Kew.
7. Unfortunately NKDC does not have resources and time to interrogate the archives to discover whether there are any Inclosure Acts relating to the Order Limits, and whether any such Inclosure Acts include provisions relating to commons, fuel or field garden allotments. The Council would respectfully suggest that as this is a matter that cuts across Compulsory Acquisition and land ownership issues on which the Council has not engaged, it ought to be for the Applicant to interrogate the archives as necessary.

Open Space

8. NKDC has checked the Central Lincolnshire Local Plan (CLLP) Adopted Policies Map, and has not identified any land which is designated or laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground within the Order Limits.
9. NKDC also has mapping relating to the open space provision assessment carried out in parallel to the CLLP. This information is available as part of the Central Lincolnshire Local Plan 'Adopted Policies Map and Interactive Map' web pages.. A strip of land including The River Witham was identified as a "Green Corridor" in the Open Space Provision Assessment. The Order Limits include part of the Green Corridor to the west of Bassingham, extending to south-west of Aourn. However, NKDC does not consider that this land constitutes an 'open space' for the purposes of s.131 of the 2008 Act, as it has no information to show that the land is publicly available and used by the public for recreation. No other land within the Order Limits was identified as public open space in the open space provision assessment.

Conclusions

10. As far as NKDC can establish for the purposes of s.131 and s.132 of the Planning Act 2008, none of the land within the Order Limits is a town or village green, nor is it open space.

11. However, NKDC does not hold information which would enable it to confirm whether any of the land within the Order Limits constitutes a different type of common, or a fuel of field garden allotment for the purposes of s.131 or s.132 of the Planning Act 2008. It is recommended that the Applicant carries out research on Inclosure Acts with Lincolnshire Archives and the National Archives as necessary to satisfy itself on this issue.