



By email to:
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Date : 22 May 2026

Dear Sir/Madam,

Lincolnshire County Council’s (LCC) response to ExQ3 GC.3.01

Following LCCs holding response submitted at Deadline 5A please see the fuller response below regarding ExQ3 GC.3.01.

The ExA will note that the Springwell Solar Farm decision issued on 8 April 2026 is currently subject to an undetermined Judicial Review challenge jointly made by Lincolnshire County Council (LCC) and North Kesteven District Council (NDKC) on 18 May 2026.

While the challenge is undetermined, LCC’s ability to fully respond to the ExA’s question GC.3.01, as to how the Springwell decision may affect our case in respect of Fosse Green, is limited in some instances, where the topics are the subject of the legal challenge, as identified below. Additionally, in light of the challenge, the weight the Springwell decision has on other planning decisions at this time may also be reduced.

Responses to the specific points requested by the ExA.

Defining commencement; maintenance; and permitted preliminary works:

LCC note the wording of Requirement 11 (Archaeology) in the Springwell DCO which states at 11(3) ‘For the purposes of sub-paragraph (1), “commence” includes parts (a) to (h) inclusive of the permitted preliminary works’. Permitted Preliminary Works as defined within the Springwell DCO are as follows:

- (a) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions;
- (b) removal of plant and machinery;
- (c) above ground site preparation for temporary facilities for the use of contractors;
- (d) remedial work in respect of any contamination or other adverse ground conditions;
- (e) diversion of existing services and the laying of temporary services;
- (f) the provision of temporary means of enclosure and site security for construction;
- (g) the temporary display of site notices or advertisements;
- (h) site clearance (including vegetation removal, demolition of existing structures or buildings);

With reference to LCCs Fosse Green case and previous submissions we would highlight LCCs response to REP3A-004 [REP4-020] under the Development Consent Order heading and reiterate that (b), (c) and (e) of the defined PPW should be included within the wording of archaeology, requirement 11.

Imposition of requirements and the provisions of management plans and any other control documents, including the approach to decommissioning:

Springwell ExA's proposed requirement 23 – restriction on commencement of development

LCC disagree with the SoS's decision to not impose requirement 23 recommended by the ExA in its Report of Findings and Conclusions and Recommendation to the Secretary of State (ER) in the making of the Springwell Solar DCO, see SoS Decision Letter (DL) paragraph 4.14 and 4.17. As such LCC is challenging the SoS decision not to impose the requirement and the recommendations of the ExA in this respect.

LCC note and agree with the conclusions of the Springwell ExA in ER paragraphs 4.4.49– 54, that a requirement preventing commencement of development until such time as the National Grid Navenby Substation (NGNS) has been granted planning permission is necessary. The ExA shared 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”* (ER 4.4.49). The ExA acknowledged that *“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”* (ER 4.4.50). *“Further, such works could feasibly lead to unnecessary disturbance and impacts on local communities over several years”* (ER 4.4.54). A restriction on the commencement of construction was considered to meet the tests for requirements (necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects) in compliance with paragraph 4.1.16 of NPS EN-1 (ER 4.4.51).

LCC are of the opinion that the SoS did not give adequate reasons in respect of 1) the removal of recommended requirement 23 and 2) the decision not to reduce the weight to the principle of the development having removed the recommended requirement 23. In respect of Fosse Green, LCC therefore maintains its position as set out in Section 8 of our Local Impact Report (LIR) [REP1-053], Written Summary of Oral Submissions ISH1 [REP1-054], Comments on Submissions at DL2 [REP3A-029], and Statement of Common Ground with LCC (SoCG) [REP4-012].

Decommissioning

LCC have stated that we are content with the wording of requirement 20 within DCO.2.27 of ExQ2. However, concerns in relation to early cessation remain and LCC would continue to state that wording to the effect of that included within the Springwell OEMP should be included within Fosse Green fOEMP. Previous comments within REP3-048 and REP3A-029.

Relationship between the Springwell Solar Farm and the proposed National Grid Navenby substation (NGNS):

LCC disagrees with the position reached by the SoS, who adopted the conclusions of the Springwell ExA in the Springwell decision that there were no obvious reasons why planning permission for the NGNS would be refused, nor with the consequent conclusion that the requirements of paragraph 4.11.8 of NPS EN-1 have been satisfied (DL paragraph 4.14). As such LCC is challenging the SoS' decision regarding the application of NPS EN-1 4.11.8.

Paragraph 4.11.8 of NPS EN-1 imposes an additional burden on an applicant when an element of the proposed project is not part of the DCO application. It requires explaining the reasons for the separate application and confirmation that there are no obvious reasons for why other elements are likely to be refused. Whilst footnote 160 recognises that a proportionate approach should be taken, in order to demonstrate policy compliance the applicant must discharge its positive burden. There must, on a rational application of the policy, be a sufficient amount of information on which to discharge that burden.

LCC is of the opinion that it cannot be positively demonstrated that there are no obvious reasons for likely refusal if there is not sufficient information on which that separate element can be meaningfully assessed. In the absence of sufficient information, the only rational application of the policy is that the applicant's positive burden cannot be discharged and therefore a policy conflict arises.

In respect of Fosse Green, LCC therefore maintains its position as set out in Section 8 of our LIR [REP1-053], Written Summary of Oral Submissions ISH1 [REP1-054], Comments on Submissions at DL2 [REP3A-029], and SoCG [REP4-012].

LCC is aware that an application for the NGNS has now been submitted to NKDC, however, at the time of writing it has not been validated. As a result, additional environmental information will potentially become available for consideration and to

inform the assessment of cumulative effects and compliance with paragraph 4.11.8 of NPS EN-1.

LCC considers that progress on the NGNS application should continue to be monitored while the Fosse Green DCO remains undetermined. Furthermore, the cumulative assessment should be updated, where necessary, to reflect this newly available information prior to any decision being made.

Fees to be paid to the relevant local planning authority when discharging requirements imposed under the terms of the made DCO:

During the course of the Springwell Examination, the dDCO was amended to increase the fees payable to discharge requirements set out in Schedule 2. LCC had raised the matter in its LIR, requesting that the fees be updated to reflect the uplift due to be introduced in April 2025. Furthermore, the following sub-paragraph was also inserted to Schedule 16 (part 5) to allow for further increases to be applied to those fees in future years to reflect the Consumer Price Index (CPI):

(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.

The revised fees and insertion of sub-paragraph (3) above were retained in the final version of the dDCO, and no changes were sought to those parts by either the ExA or the SoS.

With respect to Fosse Green, in its LIR [REP1-053] LCC suggested that the fees in the dDCO submitted with the application should be uplifted in line with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023, which were increased in April 2025, an approach consistent with the Springwell Solar Farm dDCO. LCC also confirmed its support for the inclusion of a link to CPI due to the longevity of the proposed development.

We note question DCO.3.14 in ExQ 3, and would agree that a further adjustment to the fees as set out in the Springwell Solar rDCO be applied to take account of indexation which took effect on 1 April 2026. Furthermore, we would support the inclusion of a mechanism to link future fees to CPI, in line with part 5(3) of Schedule 16 of the rDCO for Springwell.

Any matters that might have been addressed through the applicant and other parties entering into an agreement under section 106 of the TCPA 1990:

LCC note the Springwell decision secured skills and education funding and a BNG monitoring contribution through an ecological steering group which the host councils would have an active role in. In relation to Fosse Green, LCCs previous submissions regarding these matters remain.

Other matters LCC considers to have implications for the case already made:

Consideration of food production and food security

Both the ExA and the SoS in the Springwell decision concluded that the applicant should have assessed the impacts of the development on food production and food security within the ES (ER 8.4.14 and DL 4.51). LCC is of the opinion that further information in respect of the impact of the development on food production should have been sought and in accordance with Regulation 20 of the EIA Regs, the ExA should have suspended consideration of the application until it was provided with further information. The failure to suspend consideration of the application amounted to a procedural irregularity and LCC is challenging the decision in this respect.

LCC note that in the case of the Fosse Green scoping opinion issued by PINS on 25 July 2023 at 3.6.8 and 3.6.9, the following comments on the scope of the ES are provided (emphasis added):

3.6.8 The ES should identify the agricultural land uses that will be displaced by the Proposed Development. Potential effects on farm businesses, loss of agricultural production and implications for food security from both the Solar and Energy Storage Park and Grid Connection Corridor should be considered where there is potential for significant effects to occur. This should consider both effects alone and cumulatively with other projects. Effects such as severance to farm access or changes to the scale and long-term viability of farm holdings affected by the Proposed Development should also be considered.

3.6.9 The ES should demonstrate how any retained agricultural land will be available for future productive use and consider the potential economic effects of any changes in land use patterns as a result of the Proposed Development.

The applicant's assessment within ES Chapter 12 Socio-economics and Land Use [APP-037] does not in LCC's opinion cover the full range of issues identified by PINS in the scoping opinion. The additional information provided by the applicant in responses to ExQ1 questions [REP2-029] is noted, however, in light of the Springwell decision, LCC reiterates its concerns as set out in our LIR [REP1-053] paragraphs 15.25 – 26, 16.19, 19.16 and in LCC's SoCG at 4.8.5 that the impact on food production and food security is not currently adequately assessed within the ES.

LCC therefore emphasises that the ExA should be satisfied that the ES adequately addresses the matters set out in the adopted scoping opinion.

Landscape Character Area assessment impact

At paragraph 9.4.19 of the Springwell ER , the ExA agrees with LCC 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 character as well as agriculture’*. At paragraph 4.62 of the SoS DL it states *‘the Secretary of State agrees with the ExA’s view that this cumulative effect constitutes a new defining land use characteristic, representing a clear and marked change to the landscape character of NCA47’*.

In relation to Fosse Green, LCC has continually raised concerns surrounding cumulative impacts on the landscape and reiterates these concerns as set out within LIR paragraph 9.21 and the SoCG section 3.7.10. If granted, Fosse Green Energy Park would be another large scale solar development within the Lincolnshire landscape and would further compound this issue.

BMV land sealing over / permanent loss of agricultural land

At paragraph 8.4.4 of the Springwell ER, the question of whether land occupied by fixed solar equipment (BESS, substations, collector compounds etc) should be considered permanent loss of agricultural land, with reference to previously made DCOs that took this approach, including Heckington Fen, Mallard Pass, Gate Burton and Cottam solar farm projects.

In the case of Springwell, the ExA considered that soil compaction under large areas of hardstanding could result in long term effects on soil quality, raising questions on the ability to return the land back to its previous ALC classification of BMV land (paragraph 8.4.16 of the ER). Taking a precautionary approach, the ExA therefore considered that such losses should be considered permanent, which would be consistent with the aforementioned solar projects.

In their decision, the SoS agreed with the ExA’s approach (paragraphs 4.49 and 4.50), stating that sealed over areas within the development should be considered permanently lost when taking a precautionary approach to land under large areas of hardstanding and infrastructure.

The position of the SoS in the Springwell decision is consistent with the views expressed by LCC throughout the Fosse Green examination in this regard, as set out in its LIR at paragraph 15.20 [REP1-053]; as raised at the ISH1 (paragraph 13 of LCC’s post Hearing submissions) [REP1-054]; and in response to ExQ2 (question FS.2.02) [REP3-050].

Yours faithfully,



For 

Head of Planning

