



One Earth Solar Farm

Volume 6.0 Environmental Statement [EN010159]

Volume 3: Technical Appendices Supporting ES Volume 2

Appendix 8.1: Summary of Relevant Legislation, Policy and Technical Guidance

February 2025

Document Reference: EN010159/APP/6.21

Revision 01

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
- Reg 5 (2) (a)



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A.8 Land, Soil and Groundwater Legislation, Planning Policy and Guidance

A.8.1 Review of Policy, Legislation and Relevant Guidance

- A.8.1.1. Legislation, planning policy and guidance relating to land, soils and groundwater, and pertinent to our Project comprises:

Legislation

Environmental Protection Act (1990)

- A.8.1.2. Part 2A provides a statutory regime for the identification and remediation of 'Contaminated Land'. It introduces a statutory definition of 'contaminated land' based on significant harm or the likelihood of significant harm or the pollution or likely pollution of controlled waters (all groundwater, inland waters, and estuaries, excluding water perched above the zone of saturation). Local authorities are the primary regulators under the Part 2A regime, with a duty to identify contaminated land in their area.

Control of Pollution Act (1974)

- A.8.1.3. This Act preceded the EPA 1990 and makes provisions for the control of pollution across waste, water, noise, and public health.

Environmental Permitting Regulations (2016) (as amended)

- A.8.1.4. These regulation act as an overarching permitting structure for activities which may have the potential cause harm to human health and the environment. By setting out a permitting system, they aim to reduce the number of obligations for operators, whilst still retaining robust protections, best practice and legislative implementation.

National Planning Policy

Overarching National Policy Statement for Energy (EN-1) (2023)

- A.8.1.5. This provides overarching government policy on energy NSIPs, how planning applications relating to energy will be assessed, and the way in which any impacts and mitigation measures will be considered. Part 5, Section 5.8 of this policy statement specifically relates to Land Use.
- A.8.1.6. Paragraph 5.11.8 states that "The ES... should identify existing and proposed land uses near the project, any effects of replacing an existing development or use of the site with the proposed project or preventing a development or use on a neighbouring site from continuing. Applicants should also assess any effects of precluding a new development or use proposed in the development plan. The assessment should be proportionate to the scale of the preferred

scheme and its likely impacts on such receptors. For developments on previously developed land, the applicant should ensure that they have considered the risk posed by land contamination and how it is proposed to address this.”

- A.8.1.7. Paragraphs 5.11.12 to 5.11.15, 5.11.23 and 5.11.34 are all directly relevant to soil and agricultural land:

“5.11.12 Applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5).

5.11.13 Applicants should also identify any effects and seek to minimise impacts on soil health and protect and improve soil quality taking into account any mitigation measures proposed.

5.11.14 Applicants are encouraged to develop and implement a Soil Management Plan which could help minimise potential land contamination. The sustainable reuse of soils needs to be carefully considered in line with good practice guidance where large quantities of soils are surplus to requirements or are affected by contamination.

5.11.15 Developments should contribute to and enhance the natural and local environment by preventing new and existing developments from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

5.11.23 Although in the case of most energy infrastructure there may be little that can be done to mitigate the direct effects of an energy project on the existing use of the proposed site (assuming that some of that use can still be retained post project construction) applicants should nevertheless seek to minimise these effects and the effects on existing or planned uses near the site by the application of good design principles, including the layout of the project and the protection of soils during construction.

5.11.34 The Secretary of State should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification. Where schemes are to be sited on best and most versatile agricultural land the Secretary of State should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.”

National Policy Statement for Renewable Energy Infrastructure (EN-3) (2023)

- A.8.1.8. This policy acts forms a key document that a range of stakeholders use to understand government policy on NSIPs, how planning applications relating to energy infrastructure will be assessed, and the way in which any impacts and mitigation measures will be considered. Specific extracts relating to this Project are as follows:

- A.8.1.9. Paragraphs 2.10.28 to 2.10.34 state that *“Solar is a highly flexible technology and as such can be deployed on a wide variety of land types.*

While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. ‘Best and Most Versatile’ agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification.

Whilst the development of ground mounted solar arrays is not prohibited on Best and Most Versatile agricultural land, or sites designated for their natural beauty, or recognised for ecological or archaeological importance, the impacts of such are expected to be considered and are discussed under paragraphs 2.10.73 – 92 and 2.10.107 – 2.10.126.

It is recognised that at this scale, it is likely that applicants’ developments will use some agricultural land. Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land.

Where sited on agricultural land, consideration may be given as to whether the proposal allows for continued agricultural use and/or can be co-located with other functions (for example, onshore wind generation, storage, hydrogen electrolyzers) to maximise the efficiency of land use.

The Agricultural Land Classification (ALC) is the only approved system for grading agricultural quality in England and Wales and, if necessary, field surveys should be used to establish the ALC grades in accordance with the current, or any successor to it, grading criteria⁸⁶ and identify the soil types to inform soil management at the construction, operation, and decommissioning phases in line with the Defra Construction Code.

Applicants are encouraged to develop and implement a Soil Resources and Management Plan which could help to use and manage soils sustainably and minimise adverse impacts on soil health and potential land contamination. This should be in line with the ambition set out in the Environmental Improvement Plan to bring at least 40% of England’s agricultural soils into sustainable management by 2028 and increase this up to 60% by 2030.”

A.8.1.10. Paragraph 2.10.127 states that “The Defra Construction code of practice for the sustainable use of soils on construction sites provides guidance on ensuring that damage to soil during construction is mitigated and minimised. Mitigation measures focus on minimising damage to soil that remains in place, and minimising damage to soil being excavated and stockpiled. The measures aim to preserve soil health and soil structure to minimise soil carbon loss and maintain water infiltration and soil biodiversity. Mitigation measures for agricultural soils include use of green cover, multispecies cover crops - especially during the winter- minimising compaction and adding soil organic matter.”

A.8.1.11. Paragraph 2.10.145 states that “The Secretary of State should take into account the economic and other benefits of the best and most versatile agricultural land. The Secretary of State should ensure that the applicant has put forward appropriate mitigation measures to minimise impacts on soils or soil resources.”

The National Planning Policy Framework, 2024

- A.8.1.12. The National Planning Policy Framework (NPPF) is an overarching document which sets out government planning policy for England, and how this is expected to be applied by local authorities and developers. The NPPF provides a framework for local sustainable development via local plans.
- A.8.1.13. Regarding proposals affecting the Green Belt, paragraph 153 states that “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt [...]. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”
- A.8.1.14. In addition, Section 15 “Conserving and enhancing the natural environment” includes the following statements:

“Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland” and

“e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;”

- A.8.1.15. Further information relevant to the Project can be found within paragraphs 153-160 of the NPPF.

Environmental Improvement Plan 2023

- A.8.1.16. This plan forms the first review of the government’s 25 Year Environment Plan, providing the plan for the delivery of the framework. The framework sets out the Government’s vision for the environment in England and identifies the need to explore improvements across a wide range of disciplines, including an approach to land use that aims to account for the environment in the first instance. Proposals within the 25-year plan also address minimising waste and improving soil health. The Plan includes a series of long term targets, with associated interim targets, such as the following which relates to agricultural chemical use:

“Long term target: Reduce nitrogen, phosphorus and sediment pollution from agriculture into the water environment by 40% by 31 December 2038, compared to a 2018 baseline.

Interim target 1: Reduce nitrogen, phosphorus and sediment pollution from agriculture to the water environment by 10% by 31 January 2028

Interim target 2: Reduce nitrogen, phosphorus and sediment pollution from agriculture to the water environment by 15% in catchments containing protected sites in unfavourable condition due to nutrient pollution by 31 January 2028.”

The following commitment relates to waste:

“Long term target: By 31 December 2042, the total mass of residual waste excluding major mineral wastes in a calendar year does not exceed 287 kg per capita.

Interim target 1: By 31 January 2028, the total mass of residual waste excluding major mineral wastes in the most recent full calendar year does not exceed 437 kg per capita.”

Local Planning Policy

- A.8.1.17. Local planning policy relevant to our Site is set out below. Local policies can be an important and relevant consideration for NSIPs as well, but in the event of any conflict, the NPS policy prevails.

Newark and Sherwood District Council (2023) Plan Review Second Publication Amended Allocations and Development Management DPD

- A.8.1.18. This amended local Development Plan Document (DPD) has been compiled to ensure that the wider development framework within Newark and Sherwood District Council sufficiently allocates land for development to meet the needs of the area, up until 2033. The document includes *“new and amended Housing and Affordable Housing Policies which replace those included in the Amended Core Strategy and new Gypsy Roma Traveller policies and allocations. The document also sets out amendments to urban boundaries and village envelopes, retail boundaries as well as sites requiring continued protection from development (open space and green infrastructure designations). It also includes a suite of Development Management policies to provide greater direction, help deliver specific allocations and assist in the day-to-day assessment of planning applications.”* This DPD is currently under examination via the Secretary of State with an independent planning inspector.
- A.8.1.19. Specific policies within the AADMDPD relevant to our Project include Policy DM8 “Development in the Open Countryside” which states that “In accordance with the requirements of Spatial Policy 3 of the Amended Core Strategy, development away from villages or settlements, in the open countryside, will be strictly controlled and limited to the following types of development:

- > Agricultural and Forestry Development Requiring Planning Permission;
- > New and Replacement Rural Workers Dwellings, the Extension of Existing Rural Workers Dwellings, and the Removal of Occupancy Conditions Attached to Existing Dwellings;
- > New and Replacement Dwellings;
- > Replacement of Non-Residential Buildings;
- > Conversion of existing buildings;
- > Rural Diversification;
- > Equestrian Uses;
- > Employment uses;
- > Community and Leisure Facilities;
- > Roadside Services; and
- > Visitor Based Tourism Development and Tourist Accommodation.”
- > Newark and Sherwood District Council (2019), Amended Core Strategy Development Plan

A.8.1.20. The Amended Core Strategy for Newark and Sherwood District is part of the Local Development Framework for the area. This strategy outlines the overarching issues and objectives to address over a 20-year period, contextualising this into wider vision, series of objectives and core policies toward delivery.

A.8.1.21. Core Policy 9 “Sustainable Design” states the following:

- > "All new development should:
- > Demonstrate an effective and efficient use of land that, where appropriate, promotes the re-use of previously developed land and that optimises site potential at a level suitable to local character.”
- >
- > Central Lincolnshire Local Plan (2023)

A.8.1.22. The Local Plan for the central Lincolnshire area sets out the approach to planning policy and overarching development allocations to drive growth in the area over a 20-year period. The Local Plan is contextualised into a wider vision, series of objectives and core policies toward delivery.

A.8.1.23. Policy S14 “Renewable Energy” covers the commitment to supporting a transition to renewable energy, and includes the following comments:

“Proposals for solar thermal or photovoltaics panels and associated infrastructure to be installed on existing property will be under a presumption in favour of permission unless there is clear and demonstrable significant harm arising.

- *Proposals for ground based photovoltaics and associated infrastructure, including commercial large scale proposals, will be under a presumption in favour unless:*
- *there is clear and demonstrable significant harm arising; or*
- *the proposal is (following a site specific soil assessment) to take place on Best and Most Versatile (BMV) agricultural land and does not meet the requirements of Policy S67; or*
- *the land is allocated for another purpose in this Local Plan or other statutory based document (such as a nature recovery strategy or a Local Transport Plan), and the proposal is not compatible with such other allocation.*

Proposals for ground based photovoltaics should be accompanied by evidence demonstrating how opportunities for delivering biodiversity net gain will be maximised in the scheme taking account of soil, natural features, existing habitats, and planting proposals accompanying the scheme to create new habitats linking into the nature recovery strategy.

A.8.1.24. Policy S67 “Best and Most Versatile Agricultural Land” states that:

“Proposals should protect the best and most versatile agricultural land so as to protect opportunities for food production and the continuance of the agricultural economy. With the exception of allocated sites, significant development resulting in the loss of the best and most versatile agricultural land will only be supported if:

- a) The need for the proposed development has been clearly established and there is insufficient lower grade land available at that settlement (unless development of such lower grade land would be inconsistent with other sustainability considerations);*
- b) The benefits and/or sustainability considerations outweigh the need to protect such land, when taking into account the economic and other benefits of the best and most versatile agricultural land;*
- c) The impacts of the proposal upon ongoing agricultural operations have been minimised through the use of appropriate design solutions; and*
- d) Where feasible, once any development which is supported has ceased its useful life the land will be restored to its former use (this condition will be secured by planning condition where appropriate).*

Where proposals are for sites of 1 hectare or larger, which would result in the loss of best and most versatile agricultural land, an agricultural land classification report should be submitted, setting out the justification for such a loss and how criterion b has been met.”

Bassetlaw District (2011) Local Development Framework, Core Strategy and Development Management Policies DPD

A.8.1.25. The Core Strategy for the Bassetlaw District sets out the overarching vision for the area up until 2026, including the policy approach to deliver this.

A.8.1.26. Policy DM10 “Renewable and Low Carbon Energy” is relevant to our Project and states that:

“A. Carbon Reduction

The Council will be supportive of proposals that seek to utilise renewable and low carbon energy to minimise CO2 emissions. Proposals for renewable and low carbon energy infrastructure will need to demonstrate that they:

- i. are compatible with policies to safeguard the built and natural environment, including heritage assets and their setting, landscape character and features of recognised importance for biodiversity;*
- ii. will not lead to the loss or damage to high-grade agricultural land (Grades 1 & 2);*
- iii. are compatible with tourism and recreational facilities;*
- iv. will not result in unacceptable impacts in terms of visual appearance; noise; shadow-flicker; watercourse engineering and hydrological impacts; pollution; or traffic generation; and*
- v. will not result in an unacceptable cumulative impact in relation to the factors above.*

Large-scale renewable and low carbon energy proposals must provide full details of arrangements for decommissioning and reinstatement of the site if/when it ceases to operate.

B. District Heating and Co-location

Proposals for new development in District Heating Opportunity Areas will, where the scale of the proposal permits, be expected to demonstrate consideration of District Heating as a means of achieving carbon compliance. District Heating opportunities include those supplied by heat from waste management sites, power stations, coalmine methane facilities, or new standalone infrastructure. Applicants will be expected to engage with the Council at pre-application stage to assess the feasibility of achieving this objective.

Where District Heating Networks are established, all subsequent new development close enough to connect to such a network will be expected to do so where there are no barriers to this connection.

Proposals for heat-producing development will be expected to demonstrate consideration of the feasibility of utilising its waste heat for heat consuming development. Support will be given to proposals that will ensure the co-location of compatible heat-producing and heat-consuming development.

C. Major Development

Major development proposals will be expected to deliver specific low-carbon and renewable energy infrastructure in line with assessments of feasibility and overall viability.

D. Community Energy Schemes

Support will be given to community led energy schemes in line with the Council’s Renewable and Low Carbon Energy Study (or subsequent replacement), on exception sites if necessary, where strong local support is demonstrated.”

Bassetlaw Local Plan 2020-2038 (Adopted May 2024)4

A.8.1.27. This Local Plan sets out Bassetlaw District's planning and policy framework, development strategy and site allocations to inform effective delivery of the overall vision up until 2038.

A.8.1.28. Policies set out in the Local Plan are relevant to our Project.

A.8.1.29. Policy ST1 "Bassetlaw's Spatial Strategy" states that:

"The spatial strategy for Bassetlaw will be delivered over the plan period 2020-2038 through:

1. managed sustainable development and growth, appropriate to the size of each settlement or location to meet the evidenced need for new homes and jobs, to regenerate the District's town centres, and to support necessary improvements to infrastructure, services and facilities by:

a) promoting the efficient and effective use of land and the re-use of previously developed land in sustainable locations, unless there are overriding amenity, biodiversity or heritage matters that preclude such use; and by seeking to minimise the use of the most versatile grade 1-3 agricultural land, where practicable;

b) emphasising the need to develop in sustainable locations in close proximity to transport hubs and key public transport nodes, and by encouraging higher density development in those locations; and

c) ensuring that sufficient physical, social and green/blue infrastructure is delivered to meet identified needs in a timely manner.

2. enabling the provision of housing land for a minimum of 9,720 dwellings (540 dwellings per annum), through completed sites, sites with planning permission, new site allocations in this Local Plan, and from site allocations in made neighbourhood plans in accordance with the settlement hierarchy in Figure 8 below:

a) at the Main Towns:

i. approximately 2,322 dwellings in Worksop Outer Area;

ii. approximately 238 dwellings in the Worksop Central DPD;

iii. approximately 2,331 dwellings in Retford; and

iv. approximately 2,203 dwellings in Harworth and Bircotes.

b) by supporting the delivery of approximately 1,412 dwellings in the Large Rural Settlements;

c) by supporting the delivery of approximately 1,715 dwellings in the eligible Small Rural Settlements;

...

4. Countryside

3. *enabling windfall sites, which are expected to be a reliable source of housing supply during the plan period contributing approximately 912 homes;*
4. *considering land outside of development boundaries and/or outside the built up area(s) of settlements identified in the settlement hierarchy as part of the wider countryside, where development will only be supported where consistent with other policies in the development plan or national policy;*
5. *providing for 49 permanent pitches for Gypsy and Travellers by 2037-2038 of which 27 pitches will be provided by 2028-2029 to meet identified local needs;*
6. *contributing to the provision of approximately 193ha of developable land in the E(g), B2 and B8 Class at the General and Larger Unit Employment Sites, and to meet the needs for B8 sub-regional/regional large scale logistics use only on approximately 118ha of land at the Apleyhead Strategic Employment Site;*
7. *safeguarding, regenerating and enhancing the role of the District's town centres at Worksop, Retford and Harworth & Bircotes, including a small scale extension to Harworth & Bircotes town centre to secure their longevity as vibrant centres that provide for appropriate housing, business, retail, leisure and community facilities to serve each settlement, and its catchment effectively."*

A.8.1.30. Policy ST49 "Renewable Energy Generation" states that:

"1. Development that generates, shares, transmits and/or stores zero carbon and/or low carbon renewable energy including community energy schemes will be supported subject to the satisfactory resolution of all relevant site specific and cumulative impacts upon:

- a) location, setting and position in the wider landscape, resulting from its siting and scale;*
- b) natural and heritage assets and their settings;*
- c) air and water quality;*
- d) hydrology and hydrogeology;*
- e) the best and most versatile agricultural land;*
- f) existing highway capacity and highway safety;*
- g) noise, light, glare, smell, dust, emissions or flicker;*
- h) aviation and radar;*
- i) recreation and local amenity.*

Proposals must take into account operational and approved developments, as well as any proposed intensification to operational or approved proposals.

2. Proposals involving one or more wind turbines will be supported where:

- a) the site is located within an area defined as being suitable for wind energy in a made neighbourhood plan or development plan document; and*

b) following consultation, it can be satisfactorily demonstrated that all potential adverse planning impacts identified by affected local communities have been fully addressed, including cumulative impacts identified in Part 1 above.

3. All renewable energy development will be expected to provide details of the expected power generation based upon expected yield or local self-consumption to enable effective monitoring of the district's contribution to the national zero carbon targets.

4. A decommissioning programme applied by a Condition to any planning permission granted will be required to demonstrate that the site can be returned to an acceptable state, three years after cessation of operations."

National Guidance

Natural England (1988) 'Agricultural land Classification of England and Wales: Revised criteria for grading the quality of agricultural land (ALC011)

- A.8.1.31. This guidance introduced the ALC, which provides the framework for grading land according to whether physical or chemical attributes of the land in question enforces limitations on agricultural use. This classification can be utilised at different scale and therefore can be applied at local, regional as well as national level.

Natural England (2017) Likelihood of Best and Most versatile Agricultural Land

- A.8.1.32. This guidance is a mapping resource across England which visually represents the quality of agricultural land across an area, expressed through ALC grades which subsequently predict the likelihood of best and most versatile agricultural land. The maps are used for strategic planning purposes at a certain scale and use soil association predictions as the primary evidence base.



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