

ONE EARTH SOLAR FARM  
EN010159

WEST LINDSEY DISTRICT COUNCIL

## WLDC RESPONSES TO ExA's SECOND WRITTEN QUESTIONS

Question Number	Question	WLDC Response
Q10.0.1	<p><b>Management Plans</b></p> <p>At the current time the management plans do not appear to be fully agreed. For example, LCC have raised issues in respect of the oCEMP with regard to breeding birds, and the oLEMP in respect of tree planting and replacement in the event of an unforeseen event or large-scale failure. The ExA are aware discussions on these topics are ongoing, however if the matters are not agreed, are the authorities content that the dDCO gives sufficient certainty through the requirements that these matters could be resolved in due course?</p>	<p>Whilst the Management Plans will be subject of further discussion, WLDC do not yet agree that these provide the framework for the submission of details plans post any DCO being made.</p> <p>For example, it is still not yet clear whether the hedgerow north of the access track north of the Anglian Water reservoir at Gate G is to be retained or not. The relevant vegetation removal plan is contained within Appendix C of the Outline Landscape and Ecology Management Plan (oLEMP) but it is not clear whether it accurately reflects the circumstances.</p> <p>The draft DCO requires that the detailed management plans for submission post any DCO being made are in accordance with the outline management plans which will be certified documents. Should these outline management plans not be settled prior to close of examination, it will leave ambiguity in whether, for example, the detailed LEMP submitted for approval under Requirement 8 is compliant with the certified oLEMP.</p>

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Q10.2.1	<p><b>Discharge of Requirements and the payment of fees</b></p> <p>It is not clear from the comments made by NCC in item LIR 172 at D3 in respect of the payment of a fee for requirement 15 being aligned with requirement 11, whether there is a detailed justification for the fee to be increased. Please can both parties set out their reasoning in the event this remains outstanding.</p>	<p>From WLDC's review of the draft DCO text in Schedule 15, paragraph 5, is not clear whether the application fees are subject to inflation. This is a particular issue with regards Requirement 20 and the submission of the decommissioning environmental management plan in around 60 years' time. WLDC request clarification on this matter.</p>
Q12.0.4	<p><b>Sequential Test</b></p> <p>In ISH2 the applicant stated if the Sequential Test is failed, then this would be weighted against the application, but CNP comes into play. Do the councils and the EA agree with this statement in policy terms, with reference to NPS EN-1 Paragraph 4.2.15?</p>	<p>With regards paragraph 4.2.15 of NPS EN-1, WLDC note that, whilst the paragraph provides an effective presumption in favour of CNP infrastructure, the last sentence of the paragraph is clear that an exception to the presumption applies where <i>"residual impacts which present an unacceptable risk ... onshore to flood and coastal erosion risk"</i>.</p> <p>WLDC also note that within section 5.8 of NPS EN-1, paragraph 5.8.7 states <i>"Where new energy infrastructure is, exceptionally, necessary in flood risk areas (for example where there are no reasonably available sites in areas at lower risk), policy aims to make it safe for its lifetime without increasing flood risk elsewhere and, where possible, by reducing flood risk overall. It should also be designed and constructed to remain operational in times of flood"</i>.</p> <p>Paragraph 5.8.10 of NPS EN-1 states <i>"The Exception Test is only appropriate for use where the Sequential Test alone cannot deliver an acceptable site. It would only be appropriate to move onto the Exception Test when the Sequential Test has identified reasonably available, lower risk sites appropriate for the proposed development where, accounting for wider sustainable development objectives, application of relevant policies would provide a clear reason for refusing development in any alternative locations identified"</i>. Paragraph 5.8.10 gives examples of sites that are subject to national designations such as National Landscapes (formerly Areas of Outstanding Natural Beauty (AONB), Sites of Special Scientific Interest (SSSI) and World Heritage Sites.</p>

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		<p>None of the alternative sites identified in the Sequential Test Assessment [REP2-080] or the Sequential Test Addendum [REP3-069] are identified as being subject to such national designations, or indeed any international designations.</p> <p>Paragraph 5.8.11 of NPS EN-1 states that <i>“Both elements of the Exception Test will have to be satisfied for development to be consented. To pass the Exception Test it should be demonstrated that:</i></p> <ul style="list-style-type: none"> <li><i>the project would provide wider sustainability benefits to the community that outweigh flood risk; and</i></li> <li><i>the project will 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”</i>.</li> </ul> <p>WLDC therefore consider that the sequential test has not been met to enable the project to move to the exception test and thus to demonstrate that it has no unacceptable risk in terms of flood risk.</p> <p>Even if the sequential test has been passed, WLDC consider that the applicant has not demonstrated that it has passed the second part of the exception test, as required by paragraph 4.2.15.</p> <p>WLDC is also not of the view that, based on current information, the Secretary of State will have all of the information that they need in order to be satisfied that all of the relevant tests set out in paragraph 5.8.36 of NPS EN-1 have been met.</p>
Q12.0.5	<p><b>Sequential Test</b></p> <p>WLDC in their D3 submission following ISH2 maintain a lack of confidence that the current proposal has demonstrated that the sequential test has been followed in such a way that the</p>	<p>(1) WLDC do not consider that the applicant has demonstrated adequately that it has met the requirements of the sequential test. This view has been underlined by the update to Planning Practice Guidance on Flood Risk and Coastal Change paragraph 27a.</p>

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	<p>exception test can also be shown to demonstrate an exception case.</p> <p>(1) Are the councils satisfied, that with applicant's Deadline 3 submissions relating to the approach taken for the Sequential Test?</p> <p>(2) Have all the issues raised on the Sequential Test/exception test been addressed satisfactorily?</p> <p>(3) If not, what additional work do you consider is required by the applicant?</p> <p>(4) Please explain should this be the case the policy basis for the council not being satisfied?</p>	<p>In particular the applicant has not sufficiently demonstrated that an adequate review has been undertaken of whether the scheme can be split across a number of alternative sites, as was the case with the Cottam NSIP scheme.</p> <p>(2) WLDC noted in oral submissions to ISH2 that there is inconsistency in the way the reviewed sites have been presented (see representations under point 6(vi) in [REP3-097]).</p> <p>In particular, WLDC noted that paragraph 5.2.6 of the Sequential Test Assessment [REP2-080] says 10 sites were discounted because they were "<i>primarily in Flood Zones 2 and 3</i>". However, the assessment tables in Appendix A indicate whether sites are "<i>partially</i>" within flood zone 2 and 3, for example AP1. AP4 is presented as being partly in flood zone 1, but this is also discounted as a whole due to some elements being in flood zones 2 and 3. AP7 is presented as being partially within flood zones 2 and 3, but a visual review would appear to indicate all but the central north to south strip is outwith flood zones 2 and 3, which would appear to be similar or better than the current NSIP boundary. AP9, AP11 and AP12 are presented as being in an area of high probability of flooding but a visual review would indicate that a significant proportion of each site is in flood zone 1.</p> <p>This has been perpetuated in the Sequential Test Addendum submitted at deadline 3 [REP3-069]. In particular AP16 has been identified as "<i>predominantly within Flood Zones 2 and 3</i>" (paragraph 4.2.4) whereas the plans in Appendix B would appear to indicate only around half of the site area is in such zones. Likewise in Appendix A, site Alternative AP17 is identified as being "<i>wholly within Flood Zones 1</i>", when the accompanying mapping would appear to indicate the site is partially within flood zones 2 and 3.</p> <p>(3) To provide clarity, WLDC request the applicant provide, for all sites considered in the sequential test, a table setting out,</p>

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		<p>for each of the AP sites considered, the area (in hectares) located within each of flood zones 1, 2 and 3. WLDC also request a similar table setting out agricultural land classification per AP site. This will provide clear comparable data for each of the alternative sites.</p> <p>(4) In relation to a policy basis, WLDC note paragraph 27a (Reference ID 7-027a-20220825) in the Planning Practice Guidance on Flood Risk and Coastal Change, particularly the final sub-paragraph which states <i>“For infrastructure proposals of regional or national importance the area of search may reasonably extend beyond the local planning authority boundary. It may also, in some cases, be relevant to consider whether large scale development could be split across a number of alternative sites at lower risk of flooding, but 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”</i>.</p>
Q12.0.6	<p><b>PPG on flood risk was updated 17/09/25 including changes to the Sequential Test, see para 27a</b></p> <p>Paragraph 27a states. “For infrastructure proposals of regional or national importance the area of search may reasonably extend beyond the local planning authority boundary. It may also, in some cases, be relevant to consider whether large scale development could be split across a number of alternative sites at lower risk of flooding, but 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.”</p> <p>(1) Does this new guidance have any effect on the application for the proposed development or what the applicant has undertaken in the assessments provided?</p> <p>(2) Does the new guidance mean that any further work is required in respect of the Sequential Test?</p>	<p>(1) WLDC consider that the addition of paragraph 27a (Reference ID 7-027a-20220825) in the Planning Practice Guidance on Flood Risk and Coastal Change underlines the need for a further review of alternative sites both within the search area, and beyond, and a review of whether the project can be achieved by being split across a number of alternative sites at lower risk of flooding.</p> <p>(2) WLDC consider that the updated guidance suggestion that <i>“It may also, in some cases, be relevant to consider whether large scale development could be split across a number of alternative sites at lower risk of flooding”</i> means that the applicant should consider further a site layout that does not concentrate the proposals in one single area, but breaks the proposed development down into smaller elements to enable more suitable sites to be considered.</p>

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	(3) If so what additional work do you consider would be required as a result of the changes? (4) Has the position of any party changed due to the amendments made to the PPG?	(3) WLDC consider that the applicant should review other sites outwith the flood zone 2 and 3 areas to ascertain whether they would be more suitable for development. (4) WLDC's position has not changed in the light of the amendments to the PPG.