

Lime Down Solar Park DCO: Wiltshire Council comments on the Applicant's responses to ExQ2

Responding to Rev 5 dDCO ("Rev 5")

ExQ2	Question	Wiltshire Council comment
DCO2.1	Residual issues with the dDCO and management plans	
DCO2.2	Article 2 - definition of relevant highway authority	No Wiltshire comment
DCO2.3	Article 2 - PPW Environmental Management Plan	Rev 5 defines the permitted preliminary works environmental management plan and requires PPW to be carried out in accordance with it under Requirement 13. Not resolved: Rev 5 still does not require LPA approval of the PPW EMP before PPW are carried out.
DCO2.4	Article 2 - definition of "maintain"	Not resolved: Wiltshire supports the ExA's proposed amendment to the definition of "maintain" so that maintenance does not include the removal, reconstruction or replacement of the whole of the authorised development: • The amendment would not prevent assessed scheduled replacement of solar modules or BESS units during the operational life of the scheme, where that replacement remains within the assessed and secured parameters. • The Applicant's reliance on Article 5(3) is not an adequate substitute. Article 5(3) is an environmental-effects limitation only; it does not define the legal scope of the maintenance power and does not, in terms, prevent the undertaker from self-certifying the removal and replacement of all material components as maintenance if the undertaker considers the effects to be no materially new or materially different than those assessed. • There is no requirement for prior notification to the Council that the replacement falls within assessed parameters and does not give rise to materially new or different effects. • Without the ExA's wording, the definition would allow the maintenance power to become a proxy authorisation for whole-scheme renewal by component, by phase, or sequentially over time. That could include replacement involving materially different technology, altered layout, materially different construction methodology, new foundations, a new cabling strategy, changed BESS design, or whole-scheme repowering, where the undertaker considers the effects to be no materially new or materially different to those assessed. The ExA's limitation (or equivalent) appears in a large body of recently-made DCOs including Longfield, Cottam, Gate Burton, Sunnica, West Burton, Oaklands, Heckington Fen, Byers Gill, East Yorkshire, Tillbridge, Springwell, Fenwick

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		and Peartree Hill. It should therefore be adopted to preserve the ordinary distinction between maintenance of an authorised development and the removal, reconstruction or replacement of the authorised development as a whole.
DCO2.5	Article 6 - EIA Agriculture Regulations modification	No Wiltshire comment
DCO2.6	Article 7 - statutory nuisance defence	No Wiltshire comment
DCO2.7	Article 16 - traffic regulation measures Q1	Not resolved: - Wiltshire supports the ExA's proposed amendment to Article 16(4)(b), that the traffic authority's written consent should be obtained as part of the construction traffic management plan in Schedule 2, Requirement 15 - Article 47 deemed consent should not apply to traffic authority consent under Article 16
DCO2.8	Article 16 - traffic regulation measures Q2	Not resolved: - Rev 5 retains the four-week notice period in Article 16(5)(a) rather than Wiltshire's eight-week compromise. - The issue is not whether a single statutory provision specifies an eight-week DCO period; the issue is that four weeks is insufficient for Wiltshire to discharge its traffic authority and network-management functions properly. - The eight-week period remains the pragmatic minimum, reduced from the ordinary 12-week TTRO / major permit lead-in.
DCO2.9	Article 16 - traffic regulation measures Q3	No Wiltshire comment
DCO2.10	Article 40 - felling/lopping trees and hedgerow removal Q1	No Wiltshire comment
DCO2.11	Article 40 - insertion of "only"	Not resolved: - Rev 5 Article 40(4) still authorises removal of hedgerows listed in Parts 1 and 2 of Schedule 12 "to the extent set out" in the EPMS approved under Requirement 8. The requested placement of "only" has not been adopted. - Rev 5 does not quantify the specific lengths of hedgerow authorised for removal in Schedule 12. The Council's precision/enforceability concern therefore remains. - Schedule 12 should identify the authorised extent of removal by measured lengths, or at least

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		minimum/maximum extents, by reference to the approved plans, with the EPMS and HRA controls operating as further limits rather than as the only operative control.
DCO2.12	Article 41 - TPO trees	Rev 5 includes the five working day notice provision for non-urgent Article 41(1)(b) TPO works. Wiltshire's arboricultural officers considered that period reasonable for TPO trees. Not resolved: Rev 5 does not extend the notice protection to trees within Conservation Areas subject to section 211 TCPA 1990 notification requirements.
DCO2.13	Article 47 - procedure in relation to certain approvals etc.	No Wiltshire comment
DCO2.14	Article 50 - maintenance of drainage works	Rev 5 retains Article 50, which is supported by Wiltshire as the provision preserves drainage maintenance responsibilities unless otherwise agreed.
DCO2.15	Multiple requirements - National Highways consultation	No Wiltshire comment
DCO2.16	Requirement 11 - surface and foul water drainage	No Wiltshire comment
DCO2.17	Requirement 20 - decommissioning and restoration Q1	No Wiltshire comment
DCO2.18	Requirement 20 - abandoned or decayed works	No Wiltshire comment
DCO2.19	Requirement 20 - decommissioning phasing/report/certificate	No Wiltshire comment
DCO2.20	Proposed new requirement - register of requirements	No Wiltshire comment

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DCO2.21	Schedule 13 - missing certified documents	Not resolved: The Arboricultural Impact Assessment and Arboricultural Method Statement are not clearly included as certified documents.
DCO2.22	Schedule 14 - confidentiality clause in arbitration rules	No Wiltshire comment
DCO2.23	Schedule 15 - protective provisions: status and proposed revisions	Schedule 15/Part 9: Rev 5 retains the Article 17 substitution clause as requested by Wiltshire/LLFA
DCO2.24	Local highway authority protective provisions: variances and hierarchy	Not resolved: Schedule 15/Part11 - Protective Provisions for the local highway authority - Rev 5 adopts most of the Council's substantive protective provision amendments, including the wider prior approval regime, permit scheme interface, condition survey and highway damage redress wording, Article 47 exclusion, mud deposit, indemnity and expert determination. - The outstanding points are few but critical - the application/scope wording, the missing estimated cost of works definition, the maintenance trigger being tied to application rather than issue of the final certificate The Council has submitted a draft tracked-change version of the Rev 5 protection provisions and explanatory note with these comments at Deadline 6.
DCO2.25	Protected provisions for National Grid Electricity Transmission Asked: No - directed to Applicant / NGET	No Wiltshire comment
DCO2.26	Protected provisions for the Environment Agency Asked: No - directed to Applicant / Environment Agency	No Wiltshire comment
DCO2.27	Protected provisions for National Highways Asked: No - directed to Applicant / National Highways	No Wiltshire comment
DCO2.28	Schedule 16 - fees Q1	Not resolved: Rev 5 Schedule 16 now includes a dynamic fee mechanism for the discharge of Requirement 20 only. That is a

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		partial concession but does not address Wiltshire's wider concern. • The other discharge fees remain fixed; there is no general wording adding "or the fees applicable at the time of application by the Applicant"; and there is no general CPI/uplift mechanism. • Rev 5 retains ten weeks for determination, not Wiltshire's requested twelve weeks. The 20 working day outer period for further-information requests where consultees are involved has been adopted, which is welcome. • Wiltshire maintains that it must not be financially disadvantaged in discharging requirements over a 60-year scheme life. A PPA may assist, but it is not a substitute for a clear DCO fee/cost-recovery mechanism.
DCO2.29	Schedule 16 - fees Q2	No Wiltshire comment