

The Drovers Solar Farm

Appendix 11.1: Consultation and Legislation, Planning Policy and Guidance

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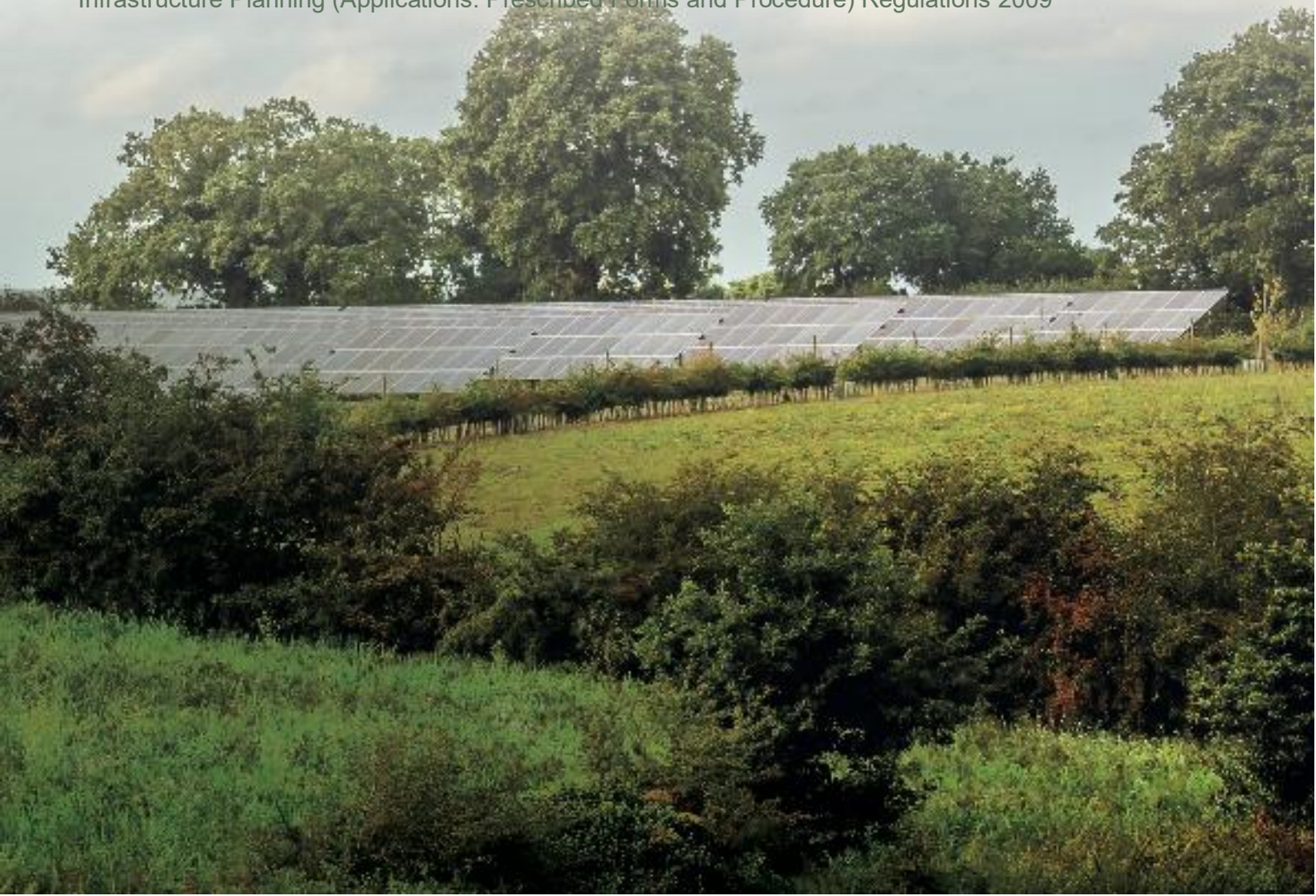
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APFP Regulation Reg 5(2)(a)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009





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11 Consultation and Legislation, Planning Policy and Guidance

11.1 Consultation

Scoping Opinion

- 11.1.1 A request for an EIA Scoping Opinion was sought from the Secretary of State through the Planning Inspectorate (PINS) in November 2024. PINS subsequently issued the Scoping Opinion in December 2024.
- 11.1.2 The issues raised in the Scoping Opinion relating to soils and agriculture are summarised and responded to within **Table 11-1** which demonstrates how the matters raised in the Scoping Opinion are addressed in **ES Chapter 11: Soils and Agriculture [APP/6.2]**.



Table 11-1 Relevant Scoping Opinion Comments from Statutory Bodies relating to Soils and Agriculture

Consultee and Date	Comment and Scoping Opinion ID No.	How has the comment been addressed in the ES chapter	Location of response in ES Chapter
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.1 Effects on agricultural land during operation can be scoped out, but construction and decommissioning phases should be scoped in.	The potential effects, both adverse and beneficial, on agricultural land have been assessed for all phases (including operation) to provide a complete assessment.	These impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] .
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.2 The economic effects on farm businesses and on food production, both individually and cumulatively, should be scoped in.	These have been scoped in, and were always intended to be scoped in, for the operation phase. The effects have also been considered for the construction and decommissioning phases as a result of PINS feedback.	The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] .
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.3 The Study Area should be defined and depicted on maps.	The Study Areas have been defined and are provided as maps.	Study areas are described in the baseline Section 11.6 and boundaries are shown on the Inserts in ES Chapter 11: Soils and Agriculture [APP/6.2]
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.4 The ALC should cover all areas affected and identify any temporary and permanent losses by ALC grade.	PINS comments reflect the methodology set out in the Scoping Report and these matters have been fully assessed.	The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] .



Consultee and Date	Comment and Scoping Opinion ID No.	How has the comment been addressed in the ES chapter	Location of response in ES Chapter
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.5 Effects on soils should be described in the ES and in an outline Soil Management Plan (oSMP)	PINS' comments reflect the methodology set out in the Scoping Report and these matters have been fully assessed.	The impacts and effects are considered in Section 11.8 and within the outline Soil Management Plan (oSMP) [APP/7.13] .
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.6 The ES methodology tables should set out greater clarity on how receptor sensitivity has been determined.	ES Chapter 11: Soils and Agriculture [APP/6.2] . methodology tables have been expanded to provide greater clarity.	These are provided in Section 11.5 of ES Chapter 11: Soils and Agriculture [APP/6.2] .
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.7 Where sheep grazing is relied upon for mitigation, any potential covenants should be considered.	Sheep grazing is a potential management outcome in combination with other ecological management, but it is not considered to be essential mitigation. The existence of covenants has been fully examined.	The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] .
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.8 The ES should consider potential cumulative effects at a regional scale.	A regional scale assessment on soils and agriculture has been completed.	The impacts and effects are considered in Section 11.11 of ES Chapter 11: Soils and Agriculture [APP/6.2] .
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.9 The ES should consider potential effects of severance for all phases of the Proposed Development.	The assessment has included potential severance effects for all phases, including from construction.	The impacts and effects are considered in Section 11.8 to Section 11.10 of ES Chapter 11: Soils and Agriculture [APP/6.2] .



Consultee and Date	Comment and Scoping Opinion ID No.	How has the comment been addressed in the ES chapter	Location of response in ES Chapter
The Planning Inspectorate, Scoping Opinion, December 2024	3.7.10 The potential effects on field drainage should be fully assessed.	The existence of and potential impacts on field drainage have been fully assessed, and are clearly identified in ES Chapter 11: Soils and Agriculture [APP/6.2] .	The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] .
Natural England, 03 December 2024	Annex A Section 14. The ES should set out the extent to which soils and agricultural land will be disturbed.	The potential for effects, both adverse and beneficial, are included in ES Chapter 11: Soils and Agriculture [APP/6.2] , and the quantities of agricultural land and soils affected are identified and clearly set out in tables.	The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] and within the oSMP [APP/7.13] .
Natural England, 03 December 2024	Annex A section 14. The ES should set out details of how any adverse impacts can be minimised through site design/layout.	The ES explains how land quality has been considered in the design process, and how impacts have been avoided or minimised.	Site selection is considered in Section 11.7 of ES Chapter 11: Soils and Agriculture [APP/6.2] . The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] . This is also considered within ES Chapter 4: Reasonable Alternatives and Design Evolution [APP/6.1] .
Natural England, 03 December 2024	Annex A section 14. The ES should set out details of how effects on soils will be minimised and how	The effects on soils, and the use and storage of soils (where necessary) are described and assessed in ES	The impacts and effects are considered in Section 11.8 of ES Chapter 11: Soils and Agriculture



Consultee and Date	Comment and Scoping Opinion ID No.	How has the comment been addressed in the ES chapter	Location of response in ES Chapter
	soils will be sustainably used and managed.	Chapter 11: Soils and Agriculture [APP/6.2].	[APP/6.2] and within the oSMP [APP/7.13].



Statutory Consultation and Preliminary Environmental Information Report (PEIR)

- 11.1.3 Statutory consultation was held between 21 May 2025 and 9 July 2025. Relevant responses to the PEIR relating to soils and agriculture and how these have been addressed through **ES Chapter 11: Soils and Agriculture [APP/6.2]** and are set out in **Table 11-2** below.



Table 11-2 Responses to the PEIR relating to soils and agriculture

Consultee and Date	Comment	How has the comment been addressed in the ES chapter	Location of response in ES Chapter
Breckland Council, Responses to Statutory Consultation between May and July 2025	Significant concerns remain regarding the use of Grades 1 and 2 and the ability to continue current types of livestock grazing	The effects on Grades 1 and 2 land and grazing potential have been assessed. There are no significant effects.	Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2].
Breckland Council, Responses to Statutory Consultation between May and July 2025	Fixed infrastructure should be located on poorer quality land.	This is considered, and the location choices explained.	Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2] and within ES Chapter 4: Reasonable Alternatives and Design Evolution [APP/6.1].
Breckland Council, Responses to Statutory Consultation between May and July 2025	The effects on food production within the Council's area should be considered.	This is considered as part of the assessment. There are no significant effects.	Section 11.8 of ES Chapter 11: Soils and Agriculture [APP/6.2]



- 11.1.4 No further engagement has been undertaken as part of stakeholder engagement specific to Soils and Agriculture.
- 11.1.5 A further round of targeted consultation was undertaken between 3 September 2025 and 1 October 2025 following changes to the development boundary area of the Scheme presented in the PEIR and during Stage Two Statutory Consultation. Further detail regarding the targeted consultation is provided in **ES Chapter 1: Introduction [APP/6.1]**.

11.2 Legislation, Planning Policy and Guidance

- 11.2.1 An overview of the legislation, planning policy and guidance against which the Scheme has been considered for the Soils and Agriculture assessment is set out below.

Legislation and Regulations

- 11.2.2 The assessment methodology sets the threshold for a moderate adverse effect at the irreversible loss of 20ha or more of Best and Most Versatile (BMV) agricultural land. This threshold equates to the consultation threshold set out in Part (y) of Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended (Statutory Instrument 2015 No 595) (**Ref 11-1**).

Planning Policy

National Planning Policy

- 11.2.3 The National Policy Statements (NPS) are a suite of documents issued by the Secretary of State, setting out the government's policy for delivery of major energy infrastructure and represent the primary policy tests against which this DCO Application for the Scheme will be considered. Listed below are the details of the elements of the NPS considered relevant to the Soils and Agriculture assessment.

Overarching National Policy Statement for Energy (NPS EN-1) (Ref 11-2).

- 11.2.4 Paragraph 5.11.3 of notes that undeveloped greenfield land may need to be used for many forms of energy infrastructure. Paragraph 5.11.12 of advises that the use of BMV land should be minimised, with a preference for the use of poorer quality land. Paragraph 5.1.13 of advises that applicants should seek to minimise impacts on soil health and promote soil quality through mitigation. This is addressed in **Section 11.8** and **Section 11.9** of **ES Chapter 11: Soils and Agriculture [APP/6.2]**. Paragraph 5.11.14 encourages the use of soil management plans, and an **oSMP [APP/7.13]** is submitted with the DCO application. Paragraph 5.11.23 of advises on mitigating impacts.
- 11.2.5 Paragraph 5.11.34 advises that the Secretary of State should ensure that schemes are not sited on the best and most versatile agricultural land without justification. If BMV land is involved, the economic and other benefits should be taken into account and areas of poorer quality land used in preference.



The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) (Ref 11-3) .

- 11.2.6 Section 2.10 “Solar Photovoltaic Generation” sets out, at Paragraph 2.10.29, that while land type should not be a predominating factor in determining the suitability of the site’s location for renewable energy development, where the use of agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land, avoiding BMV agricultural land where possible. Further advice is provided as follows:
- Biodiversity relative to intensive agricultural use (Paragraph 2.10.89): noting that solar farms have the potential to increase the biodiversity value of a site, especially if the land was previously intensively managed. This is addressed in **ES Chapter 7: Ecology and Biodiversity [APP/6.2]**;
 - Paragraph 2.10.81 (Soil Handling) and Paragraph 2.10.127 (mitigation and soil preservation); cross-referencing Defra's Construction Code of Practice for the Sustainable use of Soils (2009) (**Ref 11-4**) advise on mitigation measures to minimise soil carbon loss and maximise soil biodiversity. This is addressed in **ES Chapter 11: Soils and Agriculture [APP/6.2]** and can be secured in the **oSMP [APP/7.13]**; and
 - Paragraph 2.10.145 advises that the Secretary of State should take into account the economic and other benefits of BMV agricultural land. The Secretary of State should ensure that the Applicant has put forward appropriate mitigation measures to minimise the impacts on soils or soil resources.

The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (Ref 11-5)

- 11.2.7 Paragraph 2.9.25 requires a commitment to mitigate the potential effects of undergrounding works, requiring handling of soils, backfilling and return to the underlying ALC grade.

The National Planning Policy Framework (NPPF) (Ref 11-6) as revised in December 2024

- 11.2.8 The NPPF sets out national planning policies that reflect priorities of the government for the operation of the planning system and the economic, social, and environmental aspects of the development and use of land. The NPPF has a strong emphasis on sustainable development, with a presumption in favour of such development. The NPPF has the potential to be considered both important and relevant to the Secretary of States consideration of the Scheme.
- 11.2.9 The NPPF defines BMV land at Annex 2 as Agricultural Land Classification (ALC) Grades 1, 2 and 3a. The NPPF sets out in Paragraph 187(b) that the economic and other benefits of BMV agricultural land should be recognised in planning decisions and in the context of plan making advises that poorer quality land should be used in preference.



National Planning Practice Guidance (NPPG) (Ref 11-7)

- 11.2.10 The PPG suite from 2015, in the category on “Renewable and Low-carbon energy” advises (at Reference ID: 5-013-20150327) that factors a local planning authority will need to consider will include whether the proposed use of agricultural land has been shown to be necessary and poorer quality land has been used in preference, and the proposed use allows for continued agricultural use. This guidance is now ten years old. As set out on Page 56 of the Clean Power 2030 Action Plan (**Ref 11-8**), this guidance will be updated in 2025 to provide clarity and updates.

Local Planning Policy

- 11.2.11 The Scheme is located within the administrative areas of Norfolk County Council (NCC) and Breckland Council (BC) who are the host authorities. Local plan policies which are relevant to Soils and Agriculture, and which have informed the Soils and Agriculture assessment are detailed below.

Breckland Local Plan (Ref 11-9)

- 11.2.12 Policy ENV10 (renewable energy development) notes that proposals will be considered having regard to, inter alia, *“iii) an irreversible loss of the highest quality agricultural land”*.
- 11.2.13 The policy has a subtitle of ‘Solar Energy Development’, which refers to solar energy on agricultural land and states:

“The effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, will be encouraged provided that it is not of high environmental value.

factors that the Council will need to consider where a proposal involves greenfield land include: the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land, where possible; and that the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays (...).”

Other Guidance

- 11.2.14 The assessment has been carried out in accordance with the following other guidance documents:
- Natural England’s TIN049 (2012) “Protecting the best and most versatile agricultural land” (**Ref 11-10**);
 - MAFF (1988) ALC of England and Wales: revised guidelines and criteria for grading the quality of agricultural land (**Ref 11-11**);
 - Defra (2009) Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (**Ref 11-12**);
 - Institute of Quarrying (2021) Good Practice Guide for Handling Soils (**Ref 11-13**); and



- Institute for Sustainability and Environmental Professionals (ISEP, formerly IEMA) Guide (2022) A New Perspective on Land and Soil in Environmental Impact Assessment (hereafter the 'ISEP Guide') (**Ref 11-14**).



References

- Ref 11-1 HMSO The Town and Country Planning (Development Management Procedure) (England) Order 2015, Statutory Instrument 2015 No 595 (2015)
- Ref 11-2 National Policy Statement for Energy (NPS EN-1) (2024)
- Ref 11-3 The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) (2024)
- Ref 11-4 Department for Environment, Food and Rural Affairs (Defra). Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (2009)
- Ref 11-5 The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (2024)
- Ref 11-6 The National Planning Policy Framework (NPPF) (2024)
- Ref 11-7 DLUHC Planning Practice guidance, renewable and Low Carbon Energy (last updated 14 August 2023)
- Ref 11-8 Department for Energy Security and Net Zero, Clean Power 2030 Action Plan (December 2024)
- Ref 11-9 Breckland Council, Breckland Local Plan (September 2023)
- Ref 11-10 Natural England's Technical Information Note TIN049 "Protecting the Best and Most Versatile agricultural land, edition 2" (2012)
- Ref 11-11 Agricultural Land Classification of England and Wales: revised guidelines and criteria for grading the quality of agricultural land, MAFF (1988).
- Ref 11-12 Defra (2009) Construction Code of Practice for the Sustainable Use of Soils on Construction Sites
- Ref 11-13 The Institute of Quarrying (2021) Good Practice Guide for Handling Soils in Mineral Workings
- Ref 11-14 Institute for Sustainability and Environmental Professionals (ISEP, formerly IEMA) Guide 'A New Perspective on Land and Soil in Environmental Impact Assessment', (2022)



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