Date: 29 October 2025
Our ref: 526890
Your ref: EN010165

enquiries@kingswaysolar.co.uk

BY EMAIL ONLY

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Dear Sir/Madam,

Consultation in accordance with Section 42 of the Planning Act 2008: Kingsway Solar Farm - Statutory Consultation & Preliminary Environmental Impact Report

Thank you for your consultation on the above dated and received by Natural England on 17 September 2025.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

In responding to your consultation, we have reviewed only those chapters that we consider to be most relevant to our statutory purpose. Therefore, our response is based on the following sections of the Preliminary Environmental Impact Report (PEIR):

Volume 2 Chapter 6 Biodiversity
Volume 2 Chapter 7 Landscape and Visual Amenity
Volume 2 Chapter 10 Soils and Agriculture
Volume 2 Chapter 13 Air Quality
Volume 4: Appendix 6.5: Embedded Mitigation

CONSERVATION OF HABITATS & SPECIES REGULATION 2017 (AS AMENDED)

1. Internationally Designated Sites

The application site lies within 1km to National Site Network sites (previously referred to as European or Natura 2000 sites), and therefore has the potential to affect their interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations').

We are surprised to note the PEIR does not include any documentation to support a habitats regulations assessment (HRA) of the proposal. Natural England contacted the applicant on 14th October asking for further information regarding the HRA but have received no reply.

While Tables 6.4 and 6.8 of the PEIR consider ecological impacts to relevant designated sites, this does not follow the habitats regulations assessment step-wise process. We strongly recommend that a full shadow HRA is conducted. This should first assess whether or not the project proposes a likely significant effect to designated sites alone and in-combination with other plans or projects. It is important to note that mitigation measures should not be considered at the screening stage. The Court of Justice of the European Union's judgment in People Over Wind and Sweetman v Coillte

Teoranta (Case C-323/17) clarified that Competent Authorities, when making screening decisions, cannot take into account measures intended to avoid or reduce harmful effects.

Table 6.8 does include mitigation measures and uses terminology such as 'will likely avoid significant adverse effects'. This is very similar to terminology used in the HRA process. The second stage of the HRA is examining whether or not the project poses an adverse effect on the integrity of the designated site. It is important to distinguish between a formal assessment of adverse effect on integrity from the contents of Table 6.8.

We would welcome further discussion on the topic of the Habitats Regulations Assessment.

1.1

WILDLIFE AND COUNTRYSIDE ACT

2. Nationally Designated Sites

There are two Sites of Special Scientific Interest (SSSI) scoped into the assessment; Fleam Dyke SSSI and Devils Dyke SSSI. Tables 6.8/6.10 suggest that any potential impacts will be avoided or mitigated through measures in the outline Construction Environment Management Plan. It is not clear how the potential for direct habitat loss or damage will be mitigated in the oCEMP and we have not been able to review a copy of the oCEMP. Further information is required on the potential impacts to Fleam Dyke and Devil's Dyke.

Paragraph 1.3.5 of Volume 1, Chapter 1 states that the Inter-Array Connections could either be overhead lines or underground cabling. We seek clarity on the intended cabling methods to cross either Fleam Dyke SSSI or Devils Dyke SSSI.

Newmarket Heath SSSI and Roman Road SSSI have been scoped out due to distance. Park Wood SSSI, Carlton Wood SSSI and Balsham Wood SSSI h) andl been scoped out due to being outside of the ZoI and being designated for habitats rather than mobile species. Natural England agree with this preliminary assessment.

3. Air Quality

Standard Advice for Air Quality Impacts in National Significant Infrastructure Projects (NSIPs)
Natural England provides the following standard advice on air pollution. This advice relates to the protection of protected sites under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and the Wildlife and Countryside Act 1981 and should be taken as Natural England's formal representation. This standard advice is applicable to all stages of the NSIP process and may be used by the applicant for NSIP pre application stages, by the Examining Authority (ExA) during the statutory stages of the NSIP and by the relevant Secretary of State as the competent authority.
Protected sites are 'sites of special scientific interest' (SSSIs) and 'habitats sites' (also called 'European sites'). For the purposes of this advice, Habitats Sites are Special Areas of Conservation (SACs), possible SACs, Special Protection Areas (SPAs), Potential SPAs, Ramsar sites, and sites identified, or required, as compensatory measures for adverse effects on Habitats Sites. Although their regulatory frameworks differ, the general principles and approach for air pollution assessment outlined for Habitats Sites are also relevant for SSSIs. Where the following advice applies to both, we use the term protected sites. Where the advice or approach differs, the individual terms are used.

This includes advice on information that is required to assess this and how to interpret the results of air quality modelling for the decision maker to conclude whether air quality impacts would have an adverse effect on the integrity of a Habitat site or a SSSI. You should also consider any relevant caselaw that could affect how you carry out any air quality assessments.

Air pollutants

This advice covers the following air pollutants from the construction, operation and decommissioning phases of a proposal

- ammonia (NH3)
- nitrogen oxides (NO, NO2 or NOx)
- nitrogen deposition
- acid deposition
- sulphur dioxide (SO2)

Standing advice on air pollution and development is also available here:
https://www.gov.uk/guidance/air-pollution-and-development-advice-for-local-authorities
Whilst the standing advice does not cover NSIPs, it does include additional technical advice which may prove useful. However, in summary, Table 1 provides the steps that we advise should be taken to assess air quality impacts on protected sites. The applicant should provide their own assessment containing the information and detailed modelling you need. You need to review this and make your own conclusion.

Table 1: Sequential approach to air quality assessments

Stage	Step		Supplemental evidence/ basis for judgment
Initial screening for credible risk of an effect	**1**	Check Distance criteria - could significant emissions reach a protected site? Yes = move to Step 2 No = no further HRA required	The Air Pollution Information System (APIS) includes an introduction to air pollution. APIS provides site specific information on the interest features of individual protected sites and the sensitivity to air quality impacts of those features. Please see Table 2 for industrial air pollution screening distances. For road traffic impacts, roads on the affected road network that lie within 200m of a designated site should be considered. Use Magic Map to check the location of designated sites. Search for the location then select the 'Designations' option.
	2	Check if the qualifying habitats or supporting habitat of qualifying species are sensitive to air quality impacts. Yes = move to Step 3 No = no further HRA required APIS Site relevant Critical Loads and Levels (based on literature and professional judgement) http://www.apis.ac.uk/srcl Some habitats may not have a critical load because there is not enough data. In these cases, you should find the critical load for a similar habitat type or feature.	The qualifying features of Habitats Sites can be identified in the relevant Site Conservation Objectives and Supplementary advice packages, which include a definitive list of legally qualifying features. These objectives are available here. Alternatively, a list of qualifying features can also be found by searching for the Habitats Site and SSSIs on Designated Sites View , alongside Conservation Objectives and Supplementary Advice for Habitats Sites. The above links will also show whether any of the qualifying features for Habitats Sites have a Restore or Maintain Conservation Objective in relation to air quality thresholds (critical levels or loads). If the site is a SPA or an SAC/SSSI designated for an animal species (as opposed to a habitat), determine whether the predicted pollution effects on the supporting habitat will have a negative effect on the notified species.
Detailed AQ modelling	**3**	Undertake detailed modelling using a recognised dispersal model – i.e. Atmospheric Dispersion Modelling	Air Quality modelling should include relevant scenarios that are clearly identified.

		System (ADMS) Unless robust site-specific evidence is provided, we advise the lower range of the critical load should be used in modelling. If there are site specific reasons why it is more appropriate to use the higher end of the range, then this should be clearly evidenced.	One such example of scenarios is a baseline plus future forecasts as follows: Baseline, a construction year, and future operational year(s), do nothing (without proposal), do something (with proposal); taking into account background trends for each pollutant). For proposals that will emit pollutants from a point source, it is helpful to provide isopleths of the dispersion modelling results, showing the predicted contours of pollutant concentration and deposition of the development. These may be assessed against the locations of protected sites and sensitive features within those sites. At least 3 years of meteorological data should be included within the AQ modelling for sources other than for road transport modelling The Institute of Air Quality Management (IAQM) has produced the following document to assist its members in the assessment of the air quality impacts of development on designated nature conservation sites: air-quality-impacts-on-nature-sites-2020.pdf
Applying screening thresholds	**4a**	Apply Screening Threshold Alone If below threshold alone, move to step 4b. If above = move straight to step 5	Ascertain the Process Contribution (PC) from the plan or project (emissions and predicted deposition). Apply Screening threshold (1% of critical level or load) alone using the annual averages. If the process contribution is less than 1% of the relevant long-term benchmark (Environmental Assessment Level, Critical Level or Critical Load), the emission is not likely to have a significant effect alone irrespective of the background levels.
	4b	Apply Screening Threshold In-combination. If below threshold in-combination = no LSE/significant risk of damage etc and no further assessment required. If above = move straight to step 5 Applicants might use the Joint Nature Conservation Committee (JNCC) 'decision-making thresholds' as a reason for not completing an in-combination assessment. If so, you should check they have correctly followed the JNCC guidance on decision-making thresholds. If this guidance shows they do not need to complete an in-combination assessment, continue to step 5. If applicants have not used the decision-making thresholds, or have not followed them correctly, they will need to provide an in-combination assessment.	Use information from competent authorities (Planning Portal, PINS NSIP register or Environmental Permitting register) to determine if there are plans or projects in the pipeline (not included in the current baseline) that should be considered in-combination If the combined process contribution is less than 1% of the relevant long-term benchmark (Environmental Assessment Level, Critical Level or Critical Load), the emission is not likely to have a significant effect in-combination irrespective of background levels.
Detailed Assessment of ecological impacts	**5**	This step is to consider the ecological impacts of AQ on the interest features of the designated site and is not based only on numerical figures. If it is not certain whether sensitive features are located within the areas to be impacted, a site visit may be helpful to determine this. For SSSIs, this step should provide all the information necessary, including	The following information is likely to be helpful for the decision maker: Is the sensitive feature(s) located within the pollution footprint? Should it be there for the site to meet its Conservation Objectives or is there some other, natural reason (e.g. hydrology), why the sensitive feature(s) would not be expected to occur there? Check APIS Trends Tab for reasonable expectation on whether background pollution may be decreasing or not.

		any required mitigation, for the decision maker to determine if there would be an adverse effect on a SSSI. If Habitats Sites are impacted by the proposals, move to Step 6.	Habitats that have already been subject to high background nitrogen deposition can develop tolerance to further deposition. This cannot be used to justify further exceedance as it would undermine conservation objectives to reverse decline. You should consider predicted effects on the species richness of a habitat against the site's conservation objectives.
Appropriate Assessment (AA) for habitats sites	**6**	The competent authority to undertake their AA to conclude whether or not there will be an adverse effect on integrity (AEOI) of habitats sites. Any mitigation proposed should also be assessed at this point. Should the AA conclude that the proposal would have an AEOI that cannot be excluded with mitigation measures, consider the derogation route of the HRA process. Should compensation measures be required under derogation, please contact Natural England for specific advice. Note: If an AA has been undertaken of the proposals alone and concluded that there will not be an adverse effect on integrity, if there are residual impacts that are not fully mitigated, these will need to be considered in combination with other plans or projects	Where mitigation is required to enable a conclusion of no adverse effect on integrity to be reached the AA must be able to show that mitigation measures can be relied upon to avoid adverse effects over the full lifetime of the project (ie construction, operation and decommissioning where relevant). To be viable, such measures should be **effective, reliable, timely, guaranteed** and of **sufficient duration**. The assessment of such measures should be supported by evidence. When deciding on whether the proposals set out in the NSIP will have an adverse effect on Integrity on a Habitats Site, the Conservation Objectives and any supplementary advice should be taken into account. Including whether the site is already exceeding the environmental thresholds for ammonia, nitrogen oxides and nitrogen deposition and has a restore conservation objective.

Mitigation measures

If you cannot conclude there is no adverse effect, the applicant will need to apply mitigation measures. Measures will only be appropriate if you can quantify their effectiveness in reducing emissions on the protected site. You should check that mitigation measures are in place to avoid adverse effects on site integrity over the lifetime of the project.

Mitigation may include measures that:

- the applicant volunteers
- you impose through formal conditions or restrictions in any permission or authorisation – these may be different or stricter measures than ones proposed by the applicant

Examples could include:

- relocation or redesign of developments to avoid impacts on protected sites
- control of other emissions of the same pollutants with an overlapping effect
- a change in stack height for industrial processes
- Euro 6 standards for construction machinery
- adding wooded shelterbelts, trees, green walls and hedges to limit dispersal of emissions, as long as these measures in themselves would not negatively impact the protected site

Table 2: Industrial air pollution screening distances

Emission source	Distance for SSSIs	Distance for habitats sites
Industrial developments	2km	5km
General combustion processes (under 20MW energy input)	500m	500m
General combustion processes (20MW to 50MW energy input)	2km	2km
General combustion processes (over 50MW energy input)	2km	10km

Mechanical and biological waste treatment	500m	500m
Landfill waste	2km	2km
Compost (under 500 tonnes maximum annual operational throughput)	500m	500m
Compost (500 to 75,000 tonnes maximum annual operational throughput)	1km	1km
Compost (over 75,000 tonnes maximum annual operational throughput)	2km	2km
Airports, helipads and other aviation proposals	5km	5km
Oil and gas exploration and extraction	500m	500m
Quarries	200m	200m
Other industrial developments causing air pollution	500m	500m

Additional advice
Common Standards Monitoring[1] is used to define the ecological condition of a protected site. It is undertaken on a broader level and does not currently consider air quality impacts. The relevant benchmark for assessing impacts is the critical thresholds. Therefore, the existing status of a designated site should not be the sole reason for judgement on potential impact.

For many protected sites, the current background pollution may already be exceeding the relevant critical load/level from a different source type to the project being assessed (e.g. where the main source of background exceedance is due to agriculture, but the proposal is an industrial project). Proposals must consider their own impacts against the relevant environmental thresholds. There are many reasons why background levels are high, but the conservation objective is to 'maintain or restore' air pollutants to within these benchmarks. The objective would be undermined by proposals that add further emissions, including if it compromises any strategic initiatives to reduce air pollution levels.

You must determine if there is evidence that the increased emissions represent a measurable risk and could compromise the strategic initiatives. You would need to consider information on:

- the extent to which any declining national trends in air pollution, or strategic initiatives to tackle emissions affecting the site more locally, might otherwise lead to improvements
- the rate at which such improvements are anticipated
- the extent of the impacts of a plan or project, and whether those impacts can properly be considered temporary and reversible

If the affected area is small, consider the risk to site integrity proportionally. For example, how important is the area in terms of rarity, location, distribution, vulnerability to change and ecological structure. If it is a supporting habitat, consider its importance to the designated species on the site. Consider any site survey information that may provide evidence of existing impacts.

Emissions from road transport (if applicable):

Emissions from road transport may be an operational impact or be limited to the construction phase of proposals. Roads on the affected road network that lie within 200m of a designated site should be considered. If all affected roads are further than 200m from a protected site, then there is no likely significant effect (habitats sites) or no impact (SSSIs) on protected sites from air pollution

Improvements in vehicle technology and a move to further electrification of the vehicle fleet will, over time, result in lower background levels of nitrogen deposition and nitrogen oxide pollution near to

roads. As most sites are currently over the relevant thresholds and have a “restore” objective, this should be noted as a “retardation” of the restore objective and expressed in months and years. Retardation of less than one year is acceptable as air quality is considered against an annual average. Please note that ammonia impacts cannot be assessed in this manner as there is no certainty of a declining trend.

Defra Emissions Factor Toolkit
The Defra Emission Factor Toolkit (EFT) allows for gradual introduction of electric vehicles into the fleet (cars and LGVs) up to 2050. These are the emission factors we advise that NSIPs should be using (which we advise should also consider ammonia emissions as well as NOx – using one of three sets of emission factors available). However, the User Guide to the EFT highlights that calculation tools only support assessment years 2018 up to 2030, reflecting that predictions and assumptions beyond then become less certain. Where EFT calculated emissions are to be used after 2030 to inform air quality assessments, the EFT indicates that appropriate caveats around the limitations of the analysis must be included to accompany the assessment. We therefore advise that emission factors no later than 2030 are used for HRAs– which would mean percentages of EVs are at predicted 2030 levels. A key concern is that, although EVs themselves have no tailpipe emissions, and the percentage of them will increase, the remaining combustion engine vehicles on the road may become more polluting as they age as selective catalytic reduction technology may create ‘ammonia slip’ over time. Ammonia slip is the unreacted ammonia (NH_3) that escapes from a selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) system used to reduce NOx in exhaust gases.

Motorways within the affected road network
There is potentially an added complexity to the need for in-combination assessments when considering traffic on motorways, as including these roads can mean that the assessment takes account of traffic growth related to strategic factors or long range (external) trips that are independent of the specific plan or project and neighbouring plans or projects. These roads are strategically important and tend to have high volumes of traffic as well as being well represented in traffic models. The air quality assessment should therefore include traffic flows on these roads, but the external trips can be excluded from the initial screening assessment. A justification and explanation of which journeys are included and excluded in the traffic model should be provided. The conclusions reached on the air pollution impacts of the HRA must be incorporated into the wider HRA conclusions for other impact pathways identified for the proposals.

How to Use this Advice in Decision Making
Provided you have followed the above advice and have been able to conclude there would be no adverse effects on any protected sites we would be able to agree with your decision to authorise the project

4. Protected Species

The site has been assessed as having moderate potential for foraging and commuting bats, and is located within the 30km search radius of Eversden and Wimpole Woods SAC, designated for Barbastelle bats (which are particularly light-averse). Barbastelles were identified in the desk study and 2024 bat surveys, and the overall assemblage of bat species within the site would classify as of National Importance (PEIR Volume 2, Chapter 6, Table 6.7). Whilst we can agree that the proposals are not likely to have a significant effect on the SAC due to distance, we advise that all bat species are legally protected and the recommendations of project ecologists should be followed, particularly regarding the potential need for mitigation licences (PEIR Volume 2, Chapter 6, Paragraph 6.6.2.2), appropriate landscape design measures, and 10m+ buffer zones around hedgerows, treelines and woodland to ensure the continued availability of commuting corridors and foraging habitats (PEIR Volume 2, Chapter 6, Paragraph 6.6.42). If permanent or temporary lighting, or night-time working, is required, an ecologically sensitive lighting strategy should be produced and included in a CEMP. The guidance in GN08 Bats and Artificial Lighting (Institute of Lighting Professionals, 2025) should be followed, particularly around areas of potential value to bats (such as watercourses, woodland, hedgerows, trees with possible roosting features) as informed by the completed, ongoing and proposed surveys (PEIR Volume 4, Appendix 6.2, Baseline Data Part 1, Paragraphs 4.4.17 to

4.4.25).

Natural England has adopted standing advice for protected species, which includes guidance on survey and mitigation measures.

A separate protected species licence from Natural England or Defra may be required. Applicants should refer to the guidance at Wildlife licences: when you need to apply to check to see if a mitigation licence is required. Applicants can also make use of Natural England's charged service Pre Submission Screening Service for a review of a draft wildlife licence application. Natural England can then review a full draft licence application to issue a Letter of No Impediment (LONI) which explains that based on the information reviewed to date, that it sees no impediment to a licence being granted in the future should the DCO be issued. See Advice Note Eleven, Annex C – Natural England and the Planning Inspectorate | National Infrastructure Planning for details of the LONI process.

5. Local Sites, Priority Habitats and Species

The ES should consider any impacts upon local wildlife and geological sites, including local nature reserves. Local Sites are identified by the local wildlife trust, geoconservation group or another local group. The ES should set out proposals for mitigation of any impacts and if appropriate, compensation measures and opportunities for enhancement and improving connectivity with wider ecological networks. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies. Emerging Local Nature Recovery Strategies (LNRS) may also provide further useful information and the PEIR makes reference to this influencing the design.

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on Gov.uk.

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

Natural England highlight our research reports TIN101 and NEER012, which provide a useful review of the potential impacts of solar installations on birds. We would encourage the PEIR to consider these papers and address relevant topics.

6. Ancient Woodland

Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account when determining relevant decisions. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

7. Biodiversity Net Gain and Enhancement

It is best practice for Biodiversity Net Gain (BNG) proposals to be considered early on within project option and design phases. Early identification of areas of habitat creation and enhancement is recommended. Provision of as much BNG information as possible at an early stage will help ensure the best environmental outcomes.

For now, we recommend using the latest version of the Defra biodiversity metric to calculate BNG (currently version 4.0) and that you adhere to the rules and principles set out within the metric guidance.

- BS 8683:2021 Process for designing and implementing Biodiversity Net Gain
- CIEEM/IEMA/CIRIA good practice principles (2016) and guidance (2019).

Created and enhanced habitats should seek, where practical and reasonable, to be local to any impact. They should also deliver strategically important outcomes for nature conservation. We recommend that opportunities should be sought to link delivery to relevant plans or strategies. This could include Green Infrastructure Strategies or Local Nature Recovery Strategies.

Other comments

If you have any queries relating to the advice in this letter please contact me via email at [redacted]@naturalengland.org.uk.

Yours sincerely

[redacted]
Nationally Significant Infrastructure Projects
Senior Officer
Sustainable Development
West Anglia