

From: [REDACTED]
To: [Cleve Hill Solar Park](#)
Cc: [REDACTED]
Subject: Written representation for Cleve Hill Solar Park - Environment Agency
Date: 25 June 2019 15:56:53
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[REDACTED]

Dear Sir/Madam,

Please find our Written Representation for the Cleve Hill Solar Park Development Consent Order attached.

Do not hesitate to contact me for further details.

Kind regards,

Karolina Allu

Planning Advisor, Kent, South London and East Sussex Area

Environment Agency | Orchard House, Endeavour Park, London Road, Addington, Kent ME19 5SH

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The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our ref: KT/2018/124326/04-L01
Your ref: EN010085
Date: 25 June 2019

Dear Sir/Madam,

Application for a Development Consent Order for Cleve Hill Solar Park

Please find enclosed our Written Representation for the application for a development consent order to construct, operate and maintain Cleve Hill Solar Park (CHSP).

Consultation

We are continuing to discuss the proposal with CHSP and have agreed a Statement of Common Ground on 22 May 2019. Our current discussions are primarily around the wording of Requirement 15.

Written Representation

Medway Estuary and Swale Coastal Flood and Erosion Strategy (MEASS)

As explained in our Relevant Representation, the application does not fully explain the strategic value of the land on which the proposal is made to the Environment Agency.

The Medway Estuary and Swale Coastal Flood and Erosion Strategy (MEASS) sets out the Flood and Coastal Erosion Risk Management (FCERM) Strategy for the Tidal Medway Estuary, mainland Swale and the Isle of Sheppey. The aim of the Strategy is to protect people, properties, designated habitats and agricultural land. We have developed the strategy in partnership with Natural England and local authorities and through public consultation. The Strategy has been finalised and will be published shortly.

Under European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Fauna and Flora (also known as the 'Habitats Directive'), and the resulting Conservation of Habitats and Species Regulations 2010 (as amended), a Habitats Regulations Assessment is required where a plan or project may give rise to significant effects on European designated sites, known as Natura 2000 sites.

The Habitats Regulations Assessment for the MEASS concluded that we need to create 535ha of intertidal habitat over the 100-year life of the strategy in order to allow the strategy to go ahead with providing flood protection to some 17,000 homes in the MEASS area¹. The normal method for creating intertidal habitat is by carrying

¹ See MEASS Technical Appendix S, also called the Statement of Case, version 2, dated 21 August 2018.

out managed realignment, which entails building set-back defences inland of their current position, removing sections of the existing coastal defence, and allowing inundation of the site through successive tides.

Our analysis of sites through MEASS, as well as predecessor strategies, highlights Cleve Hill as one of the top-ranking sites for managed realignment in the area, expected to yield around 200ha of intertidal habitat towards our requirements. It is one of eight sites which have been considered as suitable for creating intertidal habitat, all of which are needed to meet our 535ha obligation.

We are discussing with the applicant how we can seek a 40-year time limit to the application to allow for planned managed realignment at the site within MEASS. The applicant has proposed a revised wording of requirement 15 and we are currently reviewing this.

3.1 Draft Development Consent Order Revision A (November 2018)

Requirement 8 (Surface and foul water drainage)

We suggest Kent County Council, as the Lead Local Flood Authority and the Lower Medway Internal Drainage Board (IDB) are consulted on this requirement rather than us as we no longer lead on surface water and have no drainage interests in this area.

Requirement 10 (Construction Environmental Management Plan)

We agree with this requirement as outlined.

Requirement 15 (Decommissioning)

We are currently discussing the details around the wording for requirement 15.

Part 6 (Operations)

We have discussed the future maintenance of the existing flood defences on the Order Land (Work No. 9) with the Applicant and agreed that in the event that the Authorised Project is implemented that this responsibility would fall to the Applicant. We support the proposals for achieving this as outlined in the Consultation Report and Chapter 5 of the Environmental Statement.

5.1 Consultation Report

This document states that we have indicated that managed realignment could take place around 50 to 100 years in the future. This figure is inaccurate. We are currently planning managed realignment for some point between the years 2039 and 2069.

6 Environmental Statement

Flood Risk Assessment (appendix 6.4.10.1):

We are satisfied with the breach flood modelling undertaken to inform the Flood Risk Assessment and consider the flood mitigation measures included in the design of the site as suitable.

The proposed site area is located within Flood Zone 3, and the FRA makes reference to the proposed solar park use as 'Essential Infrastructure' i.e. 'Essential utility infrastructure which has to be located in a flood risk area for operational reasons'. The Secretary of State should be satisfied that there is sufficient justification to locate the development within an area of high flood risk.

There are existing flood defences protecting the development site to a 1 in 1000 year standard of protection, therefore it is important to note, as has been included within the DCO application, that if development is granted permission at this site we would expect the occupier to undertake maintenance of the existing flood defences that protect the site. The submitted FRA and breach flood modelling only account for climate change to 2070, therefore if development is proposed for a longer period, further climate change allowance to 2115 would be required.

Outline Landscape and Biodiversity Management Plan (appendix 6.4.5.2):

As this site will become intertidal habitat in the medium/long term we are satisfied with plans set out in the LBMP that there will be no specific plans to enhance the areas for water voles beyond that proposed to support the licence application to Natural England.

7.5 Consents and Licences required under other legislation.

We note that the applicant has identified that they may require our consent for specific flood risk, abstraction and impounding activities. This should include any dewatering activities. The applicant should contact us to discuss.

Advice for the applicant

We would like to offer the Applicant the following advice with regards to the management of waste on site.

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;

- the Environmental regulations page on GOV.UK

Any re-use of excavated materials not undertaken formally using the CLAIRE DoWCoP would require an environmental permit for deposit, unless materials are solely aggregates from virgin sources, or from a fully compliant Quality Protocol aggregates supplier. Any deposit of materials outside of these scenarios could be subject to enforcement actions and/or landfill tax liabilities.

Any waste removed from site must be accompanied by the appropriate duty of care paperwork and transported by an authorised waste carrier to an appropriately authorised facility. Any waste treated or re-used on site will require appropriate authorisation in the form of an environmental permit or exemption. The applicant should contact our East Kent Waste Team to discuss their plans on 0208 47 47 450 or via email at KSEastKentWasteTeam@environment-agency.gov.uk.

We may need to add to or amend the matters set out in this Written Representation as further information is provided throughout the examination.

I hope that these comments are helpful in setting out details to be considered during the examination.

Yours faithfully,

Mrs Karolina Allu
Planning Advisor

Direct dial: 020 3025 2785

Direct email: kslplanning@environment-agency.gov.uk