



Mr. David H Rose  
Lead Member of the Panel of Examining  
Inspectors  
National Infrastructure  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

**Environment, Planning and  
Enforcement**  
Invicta House  
County Hall  
Maidstone  
Kent  
ME14 1XX

Phone: 03000 415673  
Ask for: Francesca Potter  
Email: [REDACTED]

**BY EMAIL ONLY**

Your reference: EN010085

26 June 2019

Dear Mr. Rose,

**Re: Application by Cleve Hill Solar Park Ltd for an Order Granting Development Consent for the Cleve Hill Solar Park – Written Representation Submission**

Following the Planning Inspectorate's Rule 8 letter dated 7 June 2019, Kent County Council (KCC) submits its Written Representation.

The County Council set out its position in relation to the proposed development in its Relevant Representation dated 28 January 2019 and provides an update on its principal submissions below. It has been prepared in accordance with Planning Inspectorate Advice Note 8.4 and should be read in conjunction with the Local Impact Report submitted by KCC on 12 June 2019.

In summary, the principal issues that KCC makes in relation to the application concern:

- Highways and Transportation (as Local Highway Authority)
- Public Rights of Way (as Local Highway Authority)
- Minerals and Waste (as Minerals and Waste Planning Authority)
- Sustainable Urban Drainage Systems (as Lead Local Flood Authority)
- Heritage Conservation
- Biodiversity

## **Highways and Transportation (as Local Highway Authority)**

KCC is satisfied that the vehicle movements associated with the construction, operation and decommissioning of the proposed Solar Park can be accommodated on the local highway network with the appropriate mitigation in place. The traffic surveys and methodology used to provide the traffic forecasts are considered appropriate and therefore KCC takes the view that the vehicle movements generated will be acceptable.

Using first principles applied to the construction programme, the applicant has been able to forecast the traffic movements throughout the construction project and determined that the peak period of HGV traffic will result in approximately 40 arrivals and 40 departures per day. This peak would take place over four weeks; commencing at around week 27 of the two year programme. HGV movements would generally fluctuate below that figure over the remainder of the project, as illustrated in the submitted Environmental Statement (ES) (Volume 1 – Chapter 11 – Paragraph 14.3).

The route that will be taken by HGVs along Head Hill Road and Seasalter Road to access the development site is unrestricted and the traffic surveys indicate that these already handle regular volumes of HGV traffic flows. In the case of Head Hill Road, this currently experiences around 200 HGV movements per day, out of over 2,800 vehicle movements in total. This suggests that HGVs are a common feature expected along these roads and the white centre line marking, indicating a 5.5m carriageway width over the majority of the route, also points towards suitability. It is therefore considered that they are generally capable of accepting additional movements over a temporary period and these can be accommodated with appropriate mitigation.

KCC has engaged with the applicant to develop the Construction Traffic Management Plan (CTMP) and this has been influenced by the experience gained previously, when a similar major project was undertaken at Cleve Hill for the construction of the London Array Wind Farm and associated sub-station. This project, completed in 2012, also employed a CTMP throughout the duration of the build and used the same route between the A299 and Cleve Hill for all of the significant number of HGV movements involved. The CTMP was considered to have been operated successfully over the period it was used.

The London Array project also provided further highway mitigation in the form of permanent physical works and KCC is of the opinion that those works will continue to have the same mitigation benefit for the current development proposal. In particular, the project accommodated the delivery of a car park for Graveney Primary School in order to remove the need for vehicles associated with the school to park on Seasalter Road and that parking provision remains in place now for the current proposal to benefit from.

KCC is content that the CTMP can be agreed prior to the development commencing and that this will control vehicle movements through the imposition of:

- A routing strategy
- Timing of deliveries
- Voluntary speed restrictions

- Temporary signage
- Holding areas
- Monitoring and enforcement
- Communication and local engagement

In addition, it is agreed that road condition surveys will be carried out to record the impact of the development on the highway route. These road condition surveys will be carried out before, during and after the construction activities in order to ascertain if there is any deterioration of the highway infrastructure and consider if this can be attributed to the additional traffic resulting from the development. The road condition surveys will also seek to identify where any maintenance works may be required.

The road condition survey that will be carried out prior to the development works will also seek to ensure that the road condition is suitable for the expected traffic and ensure that repairs can be managed during the project as required.

Finally, the onus will be on the developer to rectify any attributable damage or accelerated deterioration to the highway once the construction phase has been completed. Again, this is a similar undertaking to that previously carried out to the satisfaction of the Highway Authority in connection with the London Array project.

## **Public Rights of Way (as Local Highway Authority)**

### *Existing Public Right of Way (PRoW) Network*

Public Footpaths ZR484, ZR485, ZR488, ZR692, CW90 and CW55 pass directly through the application site, whilst Public Footpath ZR486 abuts the southern boundary of the proposed development. The proposed site layout of the solar park has accommodated the definitive alignments of these existing PRoW, avoiding the need for any diversions or extinguishments.

With regard to promoted routes, the Saxon Shore Way long distance path is currently aligned along Public Footpath ZR484/CW55. Natural England has also proposed that the England Coast Path (ECP) National Trail should be aligned along this route. Should this stretch of the ECP be approved by the Secretary of State, it is expected that the trail will be open by 2020. The number of people using the PRoW along this route is likely to increase because of the ECP, due to the higher level of promotion associated with National Trails.

The County Council initially requested that electronic people counters were installed by the applicant at key gateway locations on the PRoW network, however the applicant commissioned 'Non-Motorised User' (NMU) video surveys. As the video surveys were only operating on four days, KCC disagrees with the applicant's view that data collected from their surveys is an accurate reflection of PRoW usage. Caution must therefore be taken when referring to the results of the NMU Survey (ES - Table 14.8), as the figures obtained during this limited study may not be truly reflective of actual path use.

### *Impacts on the PRow Network*

The CTMP states that it is intended to keep PRow open and accessible during the construction phase of the project, where they pass directly through the development site (ES - Table 14.3). This approach is welcomed, as it would maintain network connectivity and minimise disruption for path users.

However, the CTMP later acknowledges the possibility that temporary closures may be needed. The draft Development Consent Order (Part 3 Paragraph 11 and Schedule 4) lists six PRow that will be temporarily stopped up in connection with the project, these closures must be discussed in advance with KCC to limit impact of the closures.

To reduce the impact on the PRow network, a 'hierarchy of intervention' is requested, which seeks the minimum impact during construction and comprises signage to keep routes open, using local management to hold PRow users for a short period (e.g. to allow vehicles to pass) and temporary closures with very short diversions immediately around works where there is no other option. Alternative access routes (temporary diversions) should also be provided, to avoid fragmentation of the PRow network.

There is a risk of surface damage along PRow during the construction phase. The applicant is reminded that there must be no disturbance of the PRow surface without the express permission of the County Council. Construction traffic vehicles should not pass along or across PRow without prior approval from KCC. It would be the responsibility of the applicant to make good any damage to the surface of the right of way, which has resulted from the construction activity.

The proposed development would transform the character of the landscape from arable to industrial. These changes would affect Public Footpaths that pass directly through the development, in addition to the wider PRow network that surrounds the site. There would be visual impacts on the PRow network during the construction, operational and decommissioning phases of this project. Whilst it is accepted that the severity and level of impact on each right of way will depend on the location of the route, the visual impacts on specific routes (e.g. ZR484 and ZR485) are likely to be significant.

The submitted plans show that the Solar PV modules will be kept away from existing PRow and have included what may be considered a relatively significant 'buffer', but the layout of the solar panels would still have an impact on the user experience. For users of Public Footpath ZR485, which passes directly through the field of PV modules for approximately 1.5km, visibility would be reduced from several kilometres to 'several tens of metres', with direct views of the panels' supports and structure. Considering the path currently passes across expansive arable fields and through open countryside, the effects on Public Footpath ZR485 may deter use of the path.

It is acknowledged by the applicant in the ES (Chapter 13) that there would be a substantial change in views for users of the PRow network. The applicant has assessed visual impacts at specific points along PRow, providing photomontages along the routes, but they have not fully considered the overall cumulative impacts (as a whole) of walking the entire lengths of paths.

Having noted the consultation feedback from local users who use the paths on a regular basis, KCC does not consider that the assessments made by the applicant reflect the likely impacts of the whole development. The County Council considers that there may be risk that the proposed development could deter local users of the PRow, who currently use the paths on a regular basis for the purpose of outdoor recreation.

With regard to future vegetation growth along PRow that pass through the site, KCC supports the proposal that the grassed surfaces of ZR488 and ZR485 would be maintained by the site operator.).

Consideration should be given to the location of any scrub planting, so that it does not encroach on any PRow or affect access. Any new planting should be set back at least one metre from the PRow and a management regime should also be agreed with the KCC.

In respect of wider network connectivity, the roads surrounding the proposed development site provide vital links between off-road PRow. Concerns are therefore raised with the predicted increase in HGV movements along these routes during the construction and decommissioning phases of the project, as these could introduce safety concerns for NMUs and deter people from walking along roads to access PRow.

#### *PRow Network Development*

The proposed development provides an opportunity to enhance public access in the region and contribute towards the delivery of Right of Way Improvement Plan (ROWIP) objectives. Given the scale of the proposed development site, the provision of new public access being offered by the applicant is disappointing. The proposed new permissive route would be a useful addition to the existing PRow network, but the route would only be permissive in nature and is therefore likely to be extinguished following the decommissioning of the site.

KCC supports the proposal for a new Permissive Path through the site that would connect Public Footpaths ZR488 and ZR484. However, the use of the route is not assured, as the path would pass between fields of new PV modules, which may not be appealing to some walkers.

KCC's request for a new off-road footpath between Public Footpaths CW90 and CW55 has not been included. This new path would be a valuable off-road walking route for the public, providing an alternative to the Faversham Road and addressing safety concerns. It is understood that the landowner is amenable to this proposal.

Given the benefits of this link, it is requested that the applicant reconsiders the option to dedicate the route as a Public Footpath or Permissive Path within the DCO. The dedication of this route as a PRow would secure its long term protection, deliver a substantial public benefit and contribute towards a positive legacy for the Solar Park after its decommissioning. The proposed route should be included within the DCO application, to ensure the route is created for the public.

## **Minerals and Waste (as Minerals and Waste Planning Authority)**

### *Mineral Safeguarding*

The adopted Kent Minerals and Waste Local Plan 2013-30 (KMWLP) safeguards economic land-won minerals in Kent and any minerals and waste infrastructure.<sup>1</sup> This is in line with the National Planning Policy Framework (NPPF) 2019 and the National Planning Policy for Waste (NPPW) 2014 requirements to ensure that the County has sufficient mineral supply and waste management provisions.

The County Council, as Minerals and Waste Planning Authority, notes that the proposed site conflicts with two Mineral Safeguarding Areas (MSA), which are safeguarded under Policy CSM5 of the adopted KMWLP. The safeguarded minerals are:

- Sub- Alluvial River Terrace Deposits
- Brickearth (Faversham – Sittingbourne Area)

The minerals are of a superficial nature and prior extraction could be possible. The County Council requests that a Mineral Assessment is submitted by the applicant. The Minerals Assessment should detail the physical characteristics of the deposits and their economic potential. It is recognised that the ES (Volume 1 - Chapter 10) does discuss ground conditions, but it does not make reference to the economic minerals.

The County Council recognises that the proposed scheme is largely a surface development, that can be erected and dismantled without significant disturbance to the ground it is sited upon. At present it is not clear whether the economic minerals highlighted above are threatened with permanent sterilisation. The County Council recognises that the lifetime of the development could be considered semi-permanent. Therefore, a Minerals Assessment is required to assess the safeguarding issues of the threatened economic geologies above with consideration against KMWLP policy DM7 and any of its potential exemptions.

The County Council would recommend that any Minerals Assessment should have adherence to the KCC Minerals and Waste Safeguarding SPD<sup>2</sup>. The County Council will actively engage with the applicant on the approach to safeguarding matters and will offer the applicant advice as necessary.

### *Waste Management Facility or Minerals Infrastructure Processing/Handing Safeguarding*

The proposed Cleve Hill Solar Park does not affect any safeguarded waste management facility or minerals processing or infrastructure.

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<sup>1</sup> <https://www.kent.gov.uk/about-the-council/strategies-and-policies/environment-waste-and-planning-policies/planning-policies/minerals-and-waste-planning-policy#tab-1>

<sup>2</sup> <http://consult.kent.gov.uk/file/4489858>

## **Sustainable Urban Drainage Systems (as Lead Local Flood Authority)**

The County Council as Lead Local Flood Authority recognises that the introduction of solar farms to a greenfield location without incorporation of basic controls can have implications that could lead to an increase in flood risk elsewhere. The applicant has completed a Flood Risk Assessment to assess both coastal flood risk and local flood risk, including the local ditch system.

The Flood Risk Assessment prepared by Arcus Consultancy Services provides an assessment of potential increase in surface water runoff associated with the proposed development. A Drainage Strategy is proposed to be implemented to mitigate any potential increase in surface water runoff. Mitigation action will include appropriate seeding but other surface finishes to protect against erosion may be necessary in some localised areas. For example, in areas with a concentration of flow, a gravel coverage may provide better protection.

From a flood risk management or surface water drainage perspective, the County Council is broadly satisfied with the mitigation proposed for the scheme.

## **Heritage Conservation**

The County Council has provided comments on three areas of heritage covered in the ES (Chapter 11):

- Archaeology
- Built Heritage
- Historic Landscape

### *Archaeology*

KCC is supportive of the way in which the applicant has assessed, surveyed and is proposing to mitigate the archaeological impacts of the scheme. The pre-application study was developed in discussion with both the County Council and Historic England. The study has provided a good general understanding of the site's archaeological potential and the potential impacts of the proposed development. KCC agrees that where there is uncertainty, taking a worse case approach is appropriate. KCC also agrees that within much of the development works, there is scope for adjustment of the scheme to preserve any particularly significant archaeological remains that may be identified. Mitigation through a programme of archaeological works is an appropriate response and can be covered through agreeing an archaeological Written Scheme of Investigation, as has been proposed.

### *Built Heritage*

KCC is of the view that no designated built heritage assets will be directly affected by the development proposal, though the setting of a number will be indirectly affected by the development during and following construction. While KCC has contributed to initial

discussions on this aspect, further representations should be sought from Historic England, Swale Borough Council and Canterbury City Council.

The development will have an effect on one undesignated built heritage asset; a Second World War Type 24 pill box located on the edge of the development. KCC accepts that the setting of the pill box will be compromised by the erection of the solar panels in its original field of fire but agrees that the indirect effect is reversible on decommissioning. Given the constraints of access to the pill box, KCC is of the view that the impact is acceptable and supports the proposal for recording of the pill box and its setting including original field of fire in advance of development.

The proposal to convert the pill box to a bat roost requires further consideration. While the pill box may provide an opportunity for ecological enhancement, it is the Council's view that this should not be to the detriment of the heritage significance of the asset. Any modifications should avoid damage to the asset and be reversible. KCC notes the proposals set out in Outline Landscape and Biodiversity Management Plan Appendix J and is of the view that elements of the proposed conversion would lead to the obscuring of the heritage asset by soil mounding and vegetation that would not be reversible on decommissioning without affecting the protected species that would be established in the pill box.

#### *Historic Landscape*

KCC notes that the development is very large in area and will change the character of the site from reclaimed and farmed land to an industrial one. It is agreed that the legibility of the former marshland is helped by the retention of the drainage ditches and sea wall and the removal of development on Cleve Hill helps to maintain the distinction between marsh and higher ground. The ES assessment methodology does not explicitly set out levels of impact for the historic landscape. It is KCC's view that for the resultant overall effect, the magnitude of effect must be considered at least Medium (possibly High); and the sensitivity potentially Medium. This is due to the historic landscape being important to the setting of a number of designated heritage assets. The effects of the development on the Historic Landscape should be used in consideration of the effects of the scheme on the landscape and the setting of designated built heritage assets which will be led on by Historic England, Swale Borough Council and Canterbury City Council.

#### *Interpretation*

KCC welcomes the intention to erect heritage information panels at appropriate locations around the site and the potential support to projects such as the Forgotten Frontline and the Defence of Swale project, both which have associated interests with the site's heritage.

### **Biodiversity**

#### *Ornithology Mitigation*

To mitigate for the loss of arable field used by wintering and passage, it is proposed to create an area of permanent grassland – this area is significantly smaller than the proposed development site and KCC is concerned that it will not provide sufficient space to implement



the mitigation. However, from the information submitted, KCC understands that Natural England is in discussion with the applicant about the proposed mitigation and therefore, KCC is deferring to Natural England on this matter as they are statutory consultee for developments that will impact SPA, SSSI and Ramsar Sites.

The Ornithological Technical Appendix (A9.1) provides details of the breeding bird surveys, however, there appears to be limited information provided on the proposed breeding bird mitigation. The development will result in the loss of ground nesting bird habitat and therefore there is a need for clarification that the proposed mitigation for wintering/passage birds will also be suitable for breeding birds.

The County Council understands that it will only be the arable land that will be lost to the proposed development and the adjacent habitats along the field margins and ditches will be retained.

#### *Other species*

The majority of non-avian species were recorded around the field margins and ditches which are to be retained within the proposed development site. While there may be a short term impact (to some areas) during construction, it is likely that current interest of the site (for these species) can be maintained and potentially improved.

#### *Habitat Creation*

The submitted information within the ES (Chapter 8 – Paragraph 174) has detailed that the following will be implemented on site if planning permission is granted:

- New ditch habitat, along the north side of the electrical compound (c. 0.15 ha)
- New buffer grassland, adjacent to the ditches throughout the site (c. 27 ha)
- Lowland meadow, in fields Y and Z (c. 14 ha)
- Scrub/grassland on the slopes of the bund around the electrical compound (c. 1.48 ha)

An Outline Landscape and Biodiversity Management Plan has been submitted to demonstrate how these areas will be managed. However, KCC would like to highlight that only one management plan should be produced, and it will need to incorporate all land management requirements in the one document. The management plan should consider how the proposed ditches will be managed to prevent surface water flooding, without other conflicting management works. This type of conflict could arise if there is not one overall management plan.

#### *Implementation*

The County Council would like to highlight that there would be a need for the following to be implemented if planning permission is granted:

- The retained vegetation areas to be properly protected during construction

- Proposed management to be actively implemented for the lifetime of the development
- Ongoing species monitoring to demonstrate if the mitigation is successful OR if changes to the management plan are required

*Habitat Regulations Assessment*

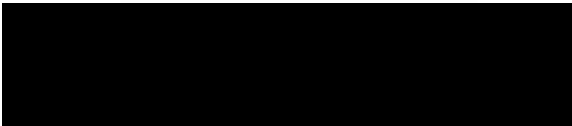
The Planning Inspectorate will be required to carry out an Appropriate Assessment and the applicant will need to provide the information to enable the work to be undertaken.

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The County Council looks forward to working with the applicant and Planning Inspectorate and welcomes the opportunity to comment on matters of detail throughout the Examination.

Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely,



**Stephanie Holt-Castle**

Interim Director for Environment, Planning and Enforcement