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**BY EMAIL ONLY**

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 - Response to Examining Authority's first written questions and requests for information (ExQ2).**

Kent County Council (KCC) provides the following response to the first written questions published by the Planning Inspectorate on 7 June 2019.

**General, Cross-topic and Miscellaneous Questions**

ExQ 1.0.2

Are Swale District, Canterbury City and Kent County Councils content with the summary of local planning policies set out in Chapter 6 of the Environmental Statement?

KCC response

The County Council considers that the following planning policies should be included within Chapter 6 of the Environmental Statement (ES):

National Planning Policy Framework (NPPF):

- Paragraph 98. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Swale Borough Council adopted Local Plan (Bearing Fruits 2031):

- Policy CP 5 - Health and wellbeing

- Policy DM 6 - Managing transport demand and impact

Canterbury City Council adopted Canterbury District Local Plan (July 2017):

- Policy OS12 Green Infrastructure

#### ExQ 1.0.8

Although National Policy Statements (NPSs) EN-1, EN-3 and EN-5 are referred to in the Planning Statement [APP-254], it is acknowledged that no NPSs are designated in respect of solar PV or energy storage developments. The Examining Authority's preliminary view is that policies in NPSs EN-1 and EN-5 are potentially 'important and relevant' matters for the Examination. The Applicant and Interested Parties are invited to comment on the applicability of NPSs to the policy framework within which the application should be determined, and to identify any particular policies in the NPSs that they consider to be important and relevant to this examination, as described under s105(2)(c) of the Planning Act 2008.

#### KCC response

The County Council recognises that there is a lack of planning policy in relation to large scale solar parks both nationally and locally. The Overarching National Policy Statement for Energy July 2011 (EN-1) is outdated in relation to the new policy landscape, where there are new economic and environmental opportunities and concerns, and changes in technology. For example, the Policy Statement details the types of renewable energy sources within its scope (paragraph 1.4.5) – and solar power is not listed. This may be due to solar power technology not being progressed to a feasible scale as to have a significant input into energy production at the time the National Policy Statement (NPS) was produced.

EN-1 does however consider the fundamental need for more renewable energy (paragraph 2.2.23). Renewable energy is noted as being able to assist in meeting the EU renewable energy 2020 target, increase energy security and reduce carbon emissions (paragraph 3.3.11). EN-1 considers further the need to replace closing electricity generating capacity and the need for more electricity capacity to support an increased supply from renewables.

EN-1 also considers the intermittency of renewables and the challenges this may bring (paragraph 3.3.12). However, the changes in battery storage and in transmission infrastructure alongside flexible generation has helped to ease some of these concerns. This further highlights where the NPS may not be up to date with current evolving technology.

The County Council recognises that Government policy is changing. The Climate Change Act 2008 looks likely to be amended to have a more challenging carbon

target<sup>1</sup>. The Government has recently announced a zero-carbon target for 2050<sup>2</sup>, and the need to adhere to the Paris Agreement to reduce carbon emissions in line with a 1.5 degree temperature rise, and seeking to explore setting a more ambitious target<sup>3</sup>. The Government has highlighted that there is a need to increase electricity production significantly from different sources of renewable energy to meet the electrification of heat and transport<sup>4</sup>. Although these aspirations are not currently presented within an NPS, there is clearly support from Government to increase the level of renewable energy generation.

KCC considers therefore that although some parts of EN-1 may be outdated, there are still some elements of the NPS that could be pertinent to the application. As highlighted above, although the technologies considered in EN-1 do not cover solar power, KCC considers that there is an overall movement towards more sustainable means of energy production that is consistent across the NPS - this must be considered in the policy framework against which this application is determined.

KCC would also like to note that there are a number of solar parks within Kent. The Examining Authority should note that there are a number of local authorities across the UK looking at developing solar farms as potential income generators and to meet carbon targets. Notably, West Sussex County Council have built two solar farms, Warrington have bought up solar farms outside of their area, and many are developing proposals including Essex County Council.

### **1.1. Biodiversity and Nature Conservation (including HRA)**

#### **ExQ 1.1.1**

Are Natural England, Kent Wildlife Trust, RSPB and the Local Authorities content with the approach to defining study areas for wildlife surveys and assessment in Chapter 8 of the Environmental Statement [APP-038] and the appended survey reports?

Are the same parties content with the explanation of how the zone of influence for ornithological study and assessment was determined, especially in relation to the functional linkage identified between affected habitats on the development site and interest features of the Swale SSSI, SPA and Ramsar site (Chapter 9 of the Environmental Statement [APP-039] and the RIAA [APP-026])?

<sup>1</sup> <https://www.gov.uk/government/news/pm-theresa-may-we-will-end-uk-contribution-to-climate-change-by-2050>

<sup>2</sup> <https://www.gov.uk/government/news/pm-theresa-may-we-will-end-uk-contribution-to-climate-change-by-2050>

<sup>3</sup> <https://www.gov.uk/government/news/climate-experts-asked-for-advice-on-net-zero-target>

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/700496/clean-growth-strategy-correction-april-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700496/clean-growth-strategy-correction-april-2018.pdf)

#### KCC response

KCC is satisfied with the range of surveys carried out by the applicant recording the species within habitats to be retained.

The County Council is deferring to Natural England on matters relating to designated sites.

#### ExQ 1.1.4

Are Natural England, Kent Wildlife Trust, RSPB and the Local Authorities content that the various 2015 protected species surveys, some of which were carried out in accordance with subsequently updated guidance, and the 2016 breeding bird and flight activity surveys are sufficiently up to date to facilitate an accurate assessment, noting the timing and results of the updated phase 1 habitat survey in February 2018?

#### KCC response

The County Council is deferring to Natural England on matters relating to designated sites.

The County Council understands that the retained habitats within the site have not significantly changed between 2015 and 2018; therefore, KCC is satisfied that the survey results of the habitat to be retained are appropriate.

#### ExQ 1.1.8

A Natural England review of the impacts of solar farms on birds is referred to in the non-technical summary of the Environmental Statement (paragraph 158 of APP-249]. Could the Applicant confirm the full reference and submit a copy into the Examination?

In relation to potential bird mortality or injury through collision with solar panels or fences, are the Applicant, Natural England, Kent Wildlife Trust, RSPB or the Local Authorities aware of any relevant monitoring studies at existing solar farm sites?

#### KCC response

The County Council has no comment to raise on this question and is deferring to Natural England.

### 1.3 Cultural Heritage

#### ExQ 1.3.3

Regarding the WWII pillbox (an undesignated heritage asset) on the application site, the Cultural Heritage assessment in the Environmental Statement [APP-041] concludes that no mitigation beyond that incorporated into the design of the Proposed Development can be suggested; the solar panels will occupy all of the land to the north of the asset, which represents the 'firing line' of the pillbox. Can Kent County Council and Swale Borough Council confirm if they are in agreement with this conclusion, or whether they consider there are any additional mitigation measures that might reduce the significance of effect on the WWII pillbox on the development site?

Do Kent County Council and Swale Borough Council support the proposals to use the pillbox as a bat roost?

#### KCC response

KCC accepts that the setting of the pill box will be compromised by the erection of the solar panels in its field of fire, but agrees that this indirect effect is reversible on decommissioning. Given the constraints of access to the pill box, KCC consider that the impact is acceptable, and supports the proposals for the recording of the pill box and its setting, including field of fire in advance of development. Other than removal of panels within the field of fire, it is unlikely that further mitigation measures can be put in place to reduce the significance of the effect.

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. Proposals for the pill box and its creation into a bat roost are set out in Outline Landscape and Biodiversity Management Plan Appendix J (Arcus 2018). The proposals for conversion involve a number of elements that could be detrimental to the significance of the heritage asset and are unlikely to be reversible. While it may be acceptable that internally the pill box is habited by bats, which would preclude access to the interior, KCC considers that the obscuring of the heritage asset by soil mounding and vegetation to provide insulation and temperature control vegetation, would lead to a loss of significance. KCC is not supportive of this. If the ecological enhancement was put in place, allowing bats to use the pill box as a roost, it is unlikely that on decommissioning of the solar park, the vegetation or soil mounding could be removed without disturbing the bats or altering their habitat. The result would likely be a permanent visual loss of the pill box.

KCC understands that the creation of a bat roost is not required as a mitigation but as an ecological enhancement. Therefore, if works cannot be implemented in a way to satisfy both ecology and heritage, KCC recommends that the applicant explores

other ways in which the site can be enhanced for roosting bats; such as the provision of bat boxes on boundary fences.

## **1.5 Environmental Statement, general**

### **ExQ 1.5.11**

Could the MMO, Natural England, Swale Borough Council, Kent County Council, Canterbury City Council and any other local authority please confirm whether they are content that all other developments, plans and projects that have potential to result in cumulative or in-combination effects together with the proposed development have been identified and appropriately assessed by the Applicant in the Environmental Statement (Table 2.2) [APP-032] and the RIAA [APP-026] (including any relevant marine licensed projects)?

### **KCC response**

The County Council does not consider that there are any additional developments, plans and projects that should be identified and appropriately assessed by the applicant, although would revert to Swale Borough Council and Canterbury City Council as Local Planning Authorities for confirmation.

## **1.6 Landscape and Visual Impact Assessment (LVIA), including RVAA and Glint and Glare**

### **ExQ 1.6.1**

Could Natural England, Swale Borough Council, Kent County Council and Canterbury City Council confirm that they are content with the locations of the viewpoints and photomontages presented in the LVIA?

### **KCC response**

The County Council, as Local Highway Authority responsible for the Public Rights of Way (PRoW) network, is content with the locations presented in the LVIA, as photomontages for locations 2, 3 and 22 show the scale and visual effects of the proposed development. However, considering the length of Footpath ZR484 around the boundary of the site, additional photomontages along this PRoW (between viewpoints 1-2 and 3-4) would be useful as they would have helped to illustrate the cumulative effects of the development on this path.

ExQ 1.6.17

Do Swale Borough Council, Kent County Council or Canterbury City Council have any observations on the approach, scope and findings of the LVIA and RVAA, including the scope of proposed mitigation and monitoring?

KCC response

With regards to the findings of the LVIA, the assessment considers the potential effects of the development at various locations on the PRow network. However, KCC does not agree that the LVIA considers the cumulative impact of the development when walking the entire length of these routes. In particular, Public Footpath ZR484 (the Saxon Shore Way), which passes around the boundary of the site and Public Footpath ZF485, which passes directly through the Core Landscape Study area.

The LVIA acknowledges that there would be major/moderate visual effects (which are considered to be significant) on PRow ZR484, ZR485 and ZR488 during the construction, operational and decommissioning phases of the project (paragraphs 329, 331, 335). While KCC agrees that these effects are likely to be significant, the LVIA concludes that the effects would be acceptable following embedded mitigation. The County Council considers that the proposed screening (vegetation planting) would not significantly reduce the severity of the visual effects. This can be seen with the year 10 photomontages for viewpoints 2, 3 and 22, as the planting does not appear to have any positive effects on the views.

## **1.8 Socio-economics**

ExQ 1.8.2

Do Kent County Council and Swale Borough Council believe that there are any additional mitigation measures that could reduce the significance of effect to the amenity of users of the public rights of way across and adjacent to the site during construction?

KCC response

The applicant has acknowledged the County Council's previous comments and has attempted to minimise the effects of the project on the PRow network. For example, convenient diversion routes would be provided for the duration of temporary path closures, in order to maintain network connectivity for the public.

The County Council does not consider that there are any additional mitigation measures that could be taken by the applicant to reduce the significance of effect to the amenity of users of the PRow network. The applicant could consider additional

screening measures to reduce the visual effects of the development, but this approach could enclose the PRow, restrict sight lines and create a negative 'corridor' effect that is not desirable.

Concerns have also been raised about the additional HGV movements on the surrounding highway network during the construction phase of the project. These HGV movements may deter Non Motorised Users' (NMU) access along the roads, which form part of the national cycle network and provide vital connections between off-road PRow. While the applicant could provide alternative 'traffic free' NMU routes within the boundary of their site to address this issue, the construction traffic will be travelling further afield from the development site. It would be difficult to establish alternative off-road access in these areas, as the temporary routes would require the agreement of 3<sup>rd</sup> party, which is outside the control of the applicant.

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KCC looks forward to continued working with the Applicant and Planning Inspectorate as the project progresses through the Examination process and will welcome the opportunity to comment on matters of detail further, as may be required 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 - Environment, Planning and Enforcement