



Planning Act 2008 – section 91

Application by Cleve Hill Solar Park Ltd for an Order granting Development Consent for the Cleve Hill Solar Park

Agenda for Issue Specific Hearing 2 dealing with matters relating to the draft Development Consent Order (DCO)

In its letter dated 7 June 2019, the Examining Authority notified Interested Parties of its decision to hold an Issue Specific Hearing into the above matter on the following date:

Hearing	Date and time	Location
Issue Specific Hearing 2 The draft DCO	Thursday 18 July 2019 10.00 am (Seating available from 09.30am)	The Alexander Centre, 17 Preston Street, Faversham, ME13 8NZ

About the Draft DCO hearing

This is the second Issue Specific Hearing to be held in this Examination. It is being held because the Examining Authority wishes to question the Applicant about the draft DCO submitted with the application documents together with any updates.

The hearing will concentrate on the specific issue of the draft DCO and any agreements needed to secure mitigation. The hearing is likely to be of a technical nature and will be based on the specific wording of the draft Order.

The hearing will principally be informed by the draft DCO submitted by the Applicant for Deadline 2 [[REP2-003](#)]. A DCO Changes Tracker, which provides a summary of the changes made from the previous draft document and the reasons for these changes, was also submitted for this Deadline and is relevant [[REP2-004](#)].

Discussion at this hearing is ‘without prejudice’; this means that parties may make contributions to improve the quality of the draft DCO without invalidating their own positions of support or opposition to the Proposed Development as a whole.

Irrespective of its recommendation, the Examining Authority is required to present a draft DCO to the Secretary of State. The Examining Authority’s participation in a discussion about the specifics of the draft DCO does not indicate that it has made up its mind about the application.

Participation, conduct and management of hearing

The Agenda has a very specific focus that is likely to be of interest mainly to those organisations or bodies that have a direct involvement in drafting the Order and in its subsequent implementation should it be granted. Oral submissions on other subject matters or from persons who are not Interested Parties may only be heard at the discretion of the Examining Authority. Interested Parties who wish to make representations on other issues are encouraged to bring these to an Open Floor Hearing where there is no subject-specific agenda and any important and relevant matters may be raised.

The Examining Authority invites and would particularly like to hear from the following Interested Parties during this Hearing:

- The Applicant;
- Swale Borough Council;
- Canterbury City Council;
- Kent County Council;
- Natural England;
- Charles Russell Speechlys LLP for London Array Limited (update on position).

The named parties have been invited because they are:

- public bodies or other parties that are named in the draft provisions in the draft DCO;
- public bodies with policy and regulatory responsibilities associated with the subject matter;
- national and local authorities for the affected area; or
- persons or organisations with another related and relevant special interest.

Participation in the hearing is subject to the Examining Authority's power to control the hearing. Interested Parties may be invited to make oral representations at the hearing¹ (subject to the Examining Authority's power to control the hearing). Oral representations should be based on the Relevant Representations or Written Representations made by the person by whom (or on whose behalf) the oral representations are made².

However, representations made at the hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention to those submissions in summary form and provide further detail, explanation and evidential corroboration to help inform the Examining Authority.

The Examining Authority may ask questions about representations or ask the Applicant or other party to comment or respond. The Examining Authority will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearing will therefore be led by a member of the Panel, supported by other Panel members.

¹ s91 Planning Act 2008

² s91 Planning Act 2008

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The Examining Authority may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration.

Any lack of discussion of a particular issue at a hearing does not preclude further examination of that issue, including through the inclusion of questions in the Examining Authority's Second Written Questions (if issued).

Should the consideration of the issues take less time than anticipated, the Examining Authority may conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. Some of the issues identified in the agenda are by their nature overlapping. It may be the case therefore that certain questions later on in the agenda are answered by earlier questions. If this is the case the Examining Authority will acknowledge this at the time.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day or at a subsequent sitting.

Breaks will be taken during the hearing as directed by the Examining Authority. All parties should note that the agenda given below is to provide a framework for this hearing and offer discussion points; it does not constrain the Examining Authority to specific topics. The Examining Authority may wish to raise other matters arising from submissions and pursue lines of inquiry in the course of the discussions which are not included in this agenda.

References in square brackets [] are to the unique document identification number in the Examination Library. This document is found on the National Infrastructure Planning website at:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010085/EN010085-000472-Examination%20Library%20Cleve%20Hill%20Solar%20Park%20PDF%20Version.pdf>

The hearing will have regard to submissions already set out in the following documents and any subsequent revisions or updates (amongst others):

- Relevant plans [APP-006 to APP-015];
- Draft DCO [APP-016] and [REP2-003];
- Explanatory Memorandum [APP-018];
- Outline CEMP [APP-205];
- Outline Decommissioning and Restoration Plan [APP-206];
- SPA Construction Noise Management Plan [APP-243];
- Construction Traffic Management Plan [APP-245];
- Outline Design Principles [APP-251];
- Mitigation Schedule [APP-252];
- Draft DCO with tracked changes [REP2-004].



Agenda

Title of meeting	Cleve Hill Solar Park Hearing on the draft DCO
Date	Thursday 18 July 2019
Time	9.30am (doors open) for 10.00am
Venue	The Alexander Centre, 17 Preston Street, Faversham, ME13 8NZ
Attendees	Invitees

1. Examining Authority's opening remarks

2. Purpose of the Hearing and speakers' introductions

3. Draft DCO Articles

- 3.1 The Applicant to summarise the structure of the draft Order and the key revisions in its updates. Is the Order in a form that allows all parties to understand the fundamental parameters, structure, approach and limitations of the consent sought?
- 3.2 Applicant to describe the extent of the Works, provisions and powers sought, and the implications or proportionality of rights sought over any land on a permanent or temporary basis.
- 3.3 Article 2: Interpretation – definitions.
- 3.4 Article 5: Is the approach likely to be acceptable to the Secretary of State?
- 3.5 Article 7: Is there sufficient control over noise to justify the defence against proceedings in respect of statutory nuisance?
- 3.6 Articles 10 and 11: Safeguards.
- 3.7 Articles 24 and 25: The relevance of the Neighbourhood Planning Act 2017.

4. Articles 28 and 29 and Schedule 8: Marine Licence

- 4.1 Applicant to confirm agreement with MMO and outline the proposed deemed Marine Licence.

5. Schedule 1, the Authorised Development

- 5.1 Work No. 2 seeks flexibility for either an energy storage facility or an extension of the PV array: is this degree of flexibility appropriate and is it adequately covered by the EIA and RIAA?
- 5.2 Works No. 8 and further associated development (g) relating to habitat area creations and management.
- 5.3 Powers sought for maintenance of the existing sea defences.
- 5.4 Powers sought for the dedication of a permissive path.
- 5.5 Proposed time limit set out in the DCO for the Proposed Development.
- 5.6 The identification and definition of 'significant effects' and the adequacy of the Mitigation Schedule for ensuring that all necessary measures will be readily auditable at the discharge of Requirements.

- 5.7 Sufficiency of the Outline Design Principles and Mitigation Schedule documents for certification to ensure that the Works authorised through any DCO do not exceed the worst-case scenario assessed in the Environmental Statement.
- 5.8 Are all of the necessary parameters of the Proposed Development that require a 'Rochdale envelope' for the purposes of the EIA included as such in the Outline Design Principles and thus assured in the draft DCO?

6. Schedule 2, Requirements

- 6.1 Applicant to briefly introduce each of the draft Requirements and their purpose, to include:
- 6.2 Requirement 3: Is the outline phasing scheme in sufficient detail to reassure that the EIA and RIAA were properly informed?
- 6.3 Requirement 10: CEMP and subordinate plans and assurance of mitigation implementation; how are documents including the Outline Design Principles and the outline CEMP properly secured in the draft DCO? Should the draft DCO be amended to include reference to the specific documents and plans that are relied upon?
- 6.4 Requirement 13: Is the Secretary of State able to rely on a current outline and future detailed Special Protection Area Construction Noise Management Plan to be certified by the local authority in respect of the Habitats Regulations Assessment or is more detail needed before close of Examination and certification by the Secretary of State required?
- 6.5 Requirement 18: Is it likely to be acceptable to have something which is approved by the Secretary of State being varied by the local authority or another person?

7. Schedule 3, Streets to be temporarily stopped up

8. Schedule 4, Public rights of way to be temporarily stopped up

9. Schedule 5, Land in which only new rights etc may be acquired

10. Schedule 6, Modification of compensation and compulsory purchase enactments for creation of new rights

11. Schedule 7, Protective provisions

- 11.1 NGET plc
- 11.2 London Array Limited

12. Schedule 9, Arbitration rules

13. Planning Obligations and any other agreements

- 13.1 Decommissioning arrangements and is there a need for a decommissioning bond?

14. Any other issues relating to the draft DCO

15. Close of Hearing