

From: [REDACTED]
To: [Cleve Hill Solar Park](#)
Cc: [Mike Bird](#)
Subject: Deadline 4 submission: Written Questions 2 Environment Agency response
Date: 23 August 2019 15:03:41
Attachments: [REDACTED]

Dear team,

Please find our response to Deadline 4: Written Questions 2 attached.

Kind regards,

Karolina Allu

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Application by Cleve Hill Solar Park Ltd for Cleve Hill Solar Park

The Examining Authority's Further Written Questions and requests for information (FWQ)

Issued on Friday 9 August 2019

The following table sets out the Examining Authority's Further Written Questions and requests for information (FWQ).

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex B to the Rule 6 letter of 18 April 2019¹. Questions have been added to the issues set out there as they have arisen from representations, meetings and hearings and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties and other persons each question is directed to. The Examining Authority would be grateful if the named parties could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by persons to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number starting with 2 (indicating that it is from FWQ), followed by an issue number and a question number. For example, the first question on Biodiversity and Nature Conservation issues is identified as question 2.1.1. When you are answering a question, please start your answer by quoting its unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the Examining Authority if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact CleveHillSolarPark@planninginspectorate.gov.uk and include 'Cleve Hill Solar Park' in the subject line of your email.

Responses are due by **Deadline 4: Friday 30 August 2019**.

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010085/EN010085-000510-20190418%20EN010085%20CLEVE%20Rule%206%20Letter.pdf>

Abbreviations used

| | | | |
|----------------|---|-----------------|--|
| ALC | <i>Agricultural Land Classification</i> | NPPF | <i>National Planning Policy Framework</i> |
| CEMP | <i>Construction Environmental Management Plan</i> | NPS | <i>National Policy Statement</i> |
| CL:AIRE | <i>Contaminated Land: Applications in Real Environments</i> | PA2008 | <i>The Planning Act 2008</i> |
| CTMP | <i>Construction Traffic Management Plan</i> | PINS | <i>Planning Inspectorate</i> |
| DCO | <i>Development Consent Order</i> | PRoW | <i>Public right of way</i> |
| dDCO | <i>Draft DCO</i> | PV | <i>Photovoltaic</i> |
| DNO | <i>Distribution Network Operator</i> | RIAA | <i>Report to Inform Appropriate Assessment</i> |
| ES | <i>Environmental Statement</i> | RVA | <i>Residential Visual Amenity Assessment</i> |
| ExA | <i>Examining Authority</i> | SPA | <i>Special Protection Area</i> |
| HRA | <i>Habitats Regulations Assessment</i> | SSSI | <i>Site of Special Scientific Interest</i> |
| HCV | <i>Heavy Goods Vehicle</i> | TCPA1990 | <i>The Town and Country Planning Act 1990</i> |
| LBMP | <i>Landscape and Biodiversity Management Plan</i> | UXO | <i>Unexploded ordnance</i> |
| LVIA | <i>Landscape and Visual Impact Assessment</i> | ZTV | <i>Zone of theoretical visibility</i> |
| MEASS | <i>The draft Medway Estuary and Swale Strategy</i> | | |
| NETS | <i>National Electricity Transmission System</i> | | |

The Examination Library

References in square brackets (e.g. '[APP-203]') are to documents catalogued in the Examination Library. These should be used when citing submitted documents in answers. The Examination Library can be obtained from the following link:

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

It will be updated as the Examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

ExQ[reference].[issue reference].[question number]. (E.g. 'ExQ2.0.1.' when referring to the first question in this table.)

| ExQ2 | Question to: | Question: | Environment Agency response: |
|--------|---|---|--|
| | | | |
| 2.1. | Biodiversity and Nature Conservation (including HRA) | | |
| 2.1.21 | Environment Agency Matthew Hatchwell | Do the Environment Agency and Mr Hatchwell believe that any additional information is required in the Outline LBMP or Outline CEMP to ensure that the necessary mitigation for European eel can be secured through any DCO? | <p>The applicant has referred to the Environment Agency's <i>Eel Manual, GEHO0211BTMV-E-E</i>, in their representation EN010085 - Cleve Hill Solar Park – for Deadline 3 Submission. This guidance makes recommendations for the passage of eels at all stages of the species' lifecycle.</p> <p>The applicant's <i>Updates To Existing Documents Outline Landscape And Biodiversity Management Plan</i>, ("LBMP", Reference Document Reference: 6.4.5.2) only refers to eels, animals frequently taken to be the species' adult stage.</p> <p>In discussions at the recent Habitat Management Steering Group meeting (23 August 2019), it was agreed that the</p> |

| ExQ2 | Question to: | Question: | Environment Agency response: |
|-------------|---|--|--|
| | | | <p>applicant's reference to eels in their LBMP is to the species and not to a specific life stage and, therefore, their measures will be appropriate to enable migration of elvers into the site and adult eels from the site.</p> <p>The applicant will confirm this in a written submission in time for the next deadline possibly by minor amendment to the LBMP.</p> |
| 2.4. | Draft Development Consent Order (dDCO) | | |
| 2.4.10 | Swale Borough Council Environment Agency | The Applicant has proposed a revised Requirement 16 [REP3-003] relating to the mechanism and timescales for decommissioning of the development insofar as it relates to land required for managed realignment. Are the relevant parties content with the Requirement as drafted subject to the comments below at ExQ2.4.12? In particular, could the Environment Agency confirm whether or not the proposed arrangements would provide sufficient flexibility, yet certainty, and adequately safeguard and facilitate managed realignment? | Requirement 16 has been worked up in consultation with the Environment Agency and we are satisfied with the Requirement. We are happy that it provides the appropriate level of flexibility and certainty. Regarding safeguarding the site, we believe the Requirement is in |

| ExQ2 | Question to: | Question: | Environment Agency response: |
|-------------|---------------------|---|--|
| | | | line with paragraph 169 of the NPPF, however as we are not the planning authority it is not our place to decide this. |
| 2.4.11 | Environment Agency | Requirement 16 (12)(c) of the dDCO [REP3-003] sets out that the decommissioning and restoration plan to be submitted in accordance with Requirement 16 (11) must not require the undertaker to decommission the flood defence located within the Order limits (i.e. the area intended for energy storage or solar panels). Would the retention of the flood defence bund be acceptable to the Agency? | We would expect the design and construction of a managed realignment scheme would be carried out by us, not the undertaker, hence we would not require them to decommission the defence. Retention of the defences in the long-term is not compatible with managed realignment, but in the period governed by this Order it is acceptable to us. |