

From: [REDACTED]
To: [Cleve Hill Solar Park](#)
Cc: [REDACTED]
Subject: Deadline 7 submission
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Attachments: [REDACTED]

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Please find attached a submission from Faversham and Swale East Branch Labour Party in response to issues raised in the Examiners' Request for Information and the RIES.

Please confirm the process after the close of the six-month Examination period at the end of November. I am being asked what happens next.

Regards

Anne Salmon
Faversham and Swale East BLP

Cleve Hill Solar Park Project Development Consent Order Application

Submission for Deadline 7 in response to the Examiners' Request for Further Information and Report on the Implications for European Sites published 23rd October 2019.

Anne Salmon BA MCD MRTPI comments:

Examiners' Request for further information.

Marsh Harriers

Natural England and Kent Wildlife Trust have not yet responded to the Applicant's deadline 6 version of the Landscape and Biodiversity Action Plan submitted following Hearing 6 on 11th September. There is still significant uncertainty regarding the behaviour of marsh harriers in response to the construction and operation over a 40-year period of this large-scale solar farm. The solar farm would occupy the greater part of the Graveney Marshes with the exception of a narrow 'borrowdyke' area inside the sea wall and the area set aside to be managed as the Arable Reversal Habitat Management Area. Other than these areas, only relatively narrow corridors will be available for marsh harriers to hunt for prey. The whole of the Graveney Marshes south of the Swale SPA is functionally linked land for marsh harriers, over which they forage by flying at low level looking for prey items. We note that the Examiners have asked the applicant to provide two estimates of marsh harrier habitat loss depending on whether the birds use the reedbed and grass corridors or not. They are also asked to justify why they consider that marsh harriers do not use the arable land and the extent to which they use the 'borrowdyke' area inside the sea wall. However, these would only be predictions and provide no certainty that this important and rare species would not be deterred from using what is now a large area of suitable habitat. Therefore, there would be no demonstration beyond reasonable scientific doubt that there would be no Adverse Effect on the Integrity of the Swale SPA for marsh harriers. It is considered that this situation is not satisfactory, and the Examiners are requested to conclude that this is a reason why the solar farm in this location is not acceptable.

Public Footpaths

With regard to public footpaths, the sea wall runs alongside the site, now the Saxon Shore Way and expected to become part of the England Coast Path. In questions R17.6.1 to R 17.6.3, the process for dealing with the other footpaths crossing the site is discussed. It is evident from these questions to the applicant and KCC that there has been little discussion between the applicant and KCC about potential closures of the public rights of way. The footpath from Nagden to Castle Coote is of particular importance as a 'short-cut' for walkers to reach the sea wall (Saxon Shore Way) for recreational purposes in winter even if the footpath would become a defile between fences with limited views. It is important that the footpaths should be kept open and maintained in a useable condition for as much of the time as possible. The public do not only walk along the Saxon Shore Way/soon to be England Coast Path to get

from A to B as argued by the applicant in the hearings. The paths around and through the site are used for recreation including to view wildlife. The situation that appears to exist between the applicant and KCC is unsatisfactory. These matters should not be left unresolved as this would make it easier for the applicant to avoid their responsibilities in these matters because they are not set out in writing.

Road traffic on Head Hill and Seasalter Road

With regard to traffic on Head Hill Road and Seasalter Road, it is noted from the Examiners' Question R17.7.1 that there does not appear to have been sufficient discussion between the applicant and KCC about control of heavy goods vehicles to and from the site. Head Hill Road and Seasalter Road are very narrow single lane roads with a mix of residential and other uses including a school and church and it is important that an accurate figure for HGV use is available to influence the decision on the application. With regard to question 17.7.4, it would seem almost beyond belief that the applicant has not discussed with Graveney School the hours when HGVs should or should not be using the road. Following the discussions at Hearing 6 about the width of the highway in response to the submission from Tom King, it is essential that the Examiners are completely clear about the width of Head Hill and Seasalter Road. This is so that they can carefully assess the impact of the HGV traffic on the safety of all road users including cyclists and pedestrians, the safety and convenience for buses and the good access for cars of local residents to their jobs and services. Given the high volume of HGVs required to construct the scheme, this raises substantial doubt as to whether Head Hill Road and Seasalter Road are a suitable access, being the only access, to such a large proposal.

Report on the Implications for European Sites.

This report is intended to assess whether or not the proposed development would have an Adverse Effect on the Integrity of the qualifying features of the Swale SPA/Ramsar site. There remain a number of areas where the applicant's conclusion of no Adverse Effect on Integrity is disputed. The situation regarding the three wintering waterbirds – brent geese, lapwing and golden plover – appears to have been largely resolved between the applicant and some of the parties in the Habitat Management Steering Group, although the latest version of the Landscape and Biodiversity Management Plan has not been agreed. There are still some issues about the timing of setting up the ARHMA and how the grass will be fertilised. The use of the 'bird day' metric also seems to have been agreed to assess the size and capacity of the ARHMA as a foraging resource. There have been discussions about the management of the ARHMA as a suitable habitat for wintering birds and whether there should be scrapes to attract the birds. What is not clear and has not been discussed in any public hearings is whether wintering birds would be put off from the area of the solar farm by its extensive coverage of the land inland of the sea wall and whether they will make their way to the ARHMA. The RSPB have not agreed on any of these matters so far and have not signed a Statement of Common Ground.

With regard to marsh harriers, there is far less agreement between the applicant and the conservation organisations as to whether there would be an Adverse Effect on Integrity. Marsh harriers forage over the entire site all year as shown in the flight path

diagrams. Natural England still have significant doubts that marsh harriers will forage along the ditches and grass strips in the site and comment that there is no existing equivalent for comparison. The development would create narrow corridors between extensive areas of solar panels which would deter the birds from trying to access their prey items even if the habitat at low level would be improved. Monitoring of the raptors at intervals throughout the life of the project would show how they are affected but if there is shown to be a decline, the applicant does not offer much remedy except discussion with the Habitat Management Steering Group. Natural England have suggested creation of off-site areas, but there is no promise of this. It is also not clear what proportion of the existing functionally-linked land will be lost. This is the subject of the Examiners' questions. Judgement in the ECJU and UK courts have made it clear that a high level of certainty is required in assessing whether a project is likely to adversely affect the integrity of a European site.

We consider that without a high level of certainty, beyond reasonable scientific doubt, that there will be no Adverse Effect on the Integrity of the Swale SPA, this factor should weigh heavily in any decision on the scheme.

Anne Salmon BA MCD MRTPI

For and on behalf of Faversham and Swale East Branch Labour Party.