



Department for
Business, Energy
& Industrial Strategy

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Email: beiseip@beis.gov.uk
Web: www.gov.uk/beis

To:

Cleve Hill Solar Park Limited

Your Ref:

Our Ref: EN010085

Date: 3 April 2020

cc:

Dear Sir or Madam,

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by Cleve Hill Solar Park Limited (“the Applicant”) for an Order granting Development Consent for the proposed Cleve Hill Solar Park and associated infrastructure (“the proposed Development”)

REQUEST FOR INFORMATION

1. Following the completion of the Examination on 30 November 2019, the Examining Authority submitted a Report and Recommendation in respect of its findings and conclusions on the above application to the Secretary of State on 28 February 2020. In accordance with section 107 of the Planning Act 2008, the Secretary of State has three months to determine the application.
2. There are issues on which the Secretary of State would be grateful if the parties identified in bold could provide any updates or information as appropriate. Additional comments from any **interested parties** on these points only will also be considered.

Request for information

Compulsory Acquisition

3. The Secretary of State notes that the Applicant seeks powers in the draft Development Consent Order (“DCO”) for the compulsory acquisition and temporary possession of land and rights over land for the purposes of facilitating the construction, operation and maintenance of the proposed Development. Sections 122 and 123 of the Planning Act 2008 set out conditions which must be met to the satisfaction of the Secretary of State if

a DCO is to authorise the compulsory acquisition of land. Guidance issued by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) provides additional information on matters relevant to the Secretary of State's consideration of the statutory provisions¹.

4. The considerations relevant to this part of the application include:
 - Section 122(2) – the land subject to Compulsory Acquisition must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required for the purposes of the development. In relation to land required to facilitate or that is incidental to the proposed development, the land to be taken must be no more than is reasonably necessary for that purpose and must be proportionate.
 - Section 122(3) – there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the Compulsory Acquisition must outweigh the private loss that would be suffered by those whose land is affected.
5. The Secretary of State notes from the Applicant's Statement of Reasons ("SoR") submitted with its application for development consent [see link below to final version of the Statement of Reasons on the PINS web-site] that compulsory acquisition powers are sought over a plot of land numbered 5/03 in the SoR and shown on the relevant Land Plan submitted by the Applicant in relation to the provision of land for "solar array, energy storage facility electrical connection, HMA [Habitats Management Area] and access" (link also attached below) .

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010085/EN010085-001729-15.5.4%20SoR%20AppA.pdf>

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010085/EN010085-000184-2.1%20Land%20Plan.pdf>

6. The Secretary of State notes that the Applicant states in its Mitigation Route Map Revision E, submitted at Deadline 6 of the Examination that the Lowland Grass Meadow Habitat Management Area which forms a large part of plot 5/03 "aims to establish a grassland sward with greater ecological value than the existing arable land. The conversion from arable to grassland enhancement/restoration is a complex process requiring intervention

¹ Department of Communities and Local Government Guidance: "Planning Act 2008: procedures for the compulsory acquisition of land" (September 2013).

over several years to ensure its success”. The Applicant also sets out that the Lowland Grassland Meadow Habitat Management Area is “the establishment of lowland meadow grassland on 32.4 ha of previously cropped arable land for the benefit of birds and other fauna”.

7. The Secretary of State is considering whether the Lowland Grass Meadow Habitat Management Plan that is proposed in plot 5/03 meets the requirements of section 122 of the Planning Act 2008. The Secretary of State is minded to conclude that the compulsory acquisition of plot 5/03 should be confirmed only in respect of Works numbers 1 and 4 in the event that the DCO is granted. The Secretary of State requests the **Applicant’s** view on whether limiting the compulsory acquisition powers sought over plot 5/03 to Works 1 and 4 in any DCO that might be issued is appropriate.
8. The **Applicant** is, in any case, requested to provide revisions to the Land Plan and Book of Reference, including a revised Plot Reference and Description of Land, and for these to be included in the List of Certified Documents.
9. The **Applicant** is also requested to provide the Secretary of State with an accurately marked site boundary within plot 5/03.

Project Definition

10. In taking decisions about applications for development consent, the Secretary of State is always mindful of the need to ensure that all parties are aware that any proposed project that might be granted consent will not alter beyond the parameters of the proposed project that have been assessed during its Examination.
11. The Secretary of State notes there was discussion between the Examining Authority and the Applicant over the possibility of the proposed Cleve Hill Solar Park expanding beyond the parameters of the project that had been considered during Examination and in the Applicant’s Environmental Statement. In particular, the Secretary of State notes the contents of paragraph 17.5.4 of the Examining Authority’s Regulation 17 letter of 23 October 2019 for Deadline 7. The Examining Authority indicated in the letter that it was *“inclined to include amended or additional Requirement(s) in the recommended DCO”* and asked the Applicant to provide a *“suitably drafted Requirement that secures these parameters and restricts any development beyond that which is presented in the ‘candidate design’ and assessed in the ES”*.
12. The Secretary of State further notes that the Applicant’s response in document 15.3.1 Revision A of November 2019 stated that *“The addition of the candidate design parameters into the ODPs at Appendix B (Deadline 7 submission document reference 7.1, Revision F) addresses this requirement, as the detailed design is required (by Requirement 2 of the DCO) to “accord with the outline design principles, or such variation thereof as*

may be approved by the relevant planning authority pursuant to requirement 19". In light of this comment, the Applicant did not provide wording on this issue for any recommended DCO.

13. As indicated in paragraph 10 above, the Secretary of State considers that it is important to ensure all interested parties have knowledge about the specific development that might be permitted by the Planning Act 2008 process in each case. While noting the Applicant's position as set out in its letter of November 2019, the Secretary of State is considering whether to include in any DCO that might be made, an amendment to the Detailed design approval requirement [Requirement 2.2] in the Applicant's draft DCO submitted as Revision I of November 2019 in response to the Examining Authority's Rule 17 letter to provide greater certainty of what may be permitted. The Secretary of State, therefore, requests comments from **the Applicant** on the inclusion of the text underlined below in any DCO that might be made:

*"The details submitted must be in accordance with –
(a) the location, order limits and grid coordinates plan;
(b) the works plan;
(c) the principles and assessments set out in the environmental statement; and
(d) the outline design principles, or such variation thereof as may be approved by the relevant planning authority pursuant to Requirement 19."*

Responses are requested by 23.59 on 20 April 2020.

14. In the current situation, responses on the information requested above should be submitted by email only to: CleveHillSolarPark@planninginspectorate.gov.uk .
15. Responses will be published on the Cleve Hill Solar Park project page of the National Infrastructure Planning website:
<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/norfolk-vanguard/>
as soon as possible after **20 April 2020**.
16. This letter is without prejudice to the Secretary of State's consideration of whether to grant or withhold development consent for the Cleve Hill Solar Park. Nothing in this letter is to be taken to imply what the eventual decision might be or what final conclusions the Secretary of State may reach on any particular issue which is relevant to the determination of the application.

Yours faithfully

Gareth Leigh
Head of Energy Infrastructure Planning