



Little Crow

Solar Park

Little Crow Solar Park, Scunthorpe

APPLICANT'S COMMENTS ON OTHER PARTIES' RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS (EXQ1)

DEADLINE 3

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APPLICANT'S COMMENTS ON OTHER PARTIES' RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS (EXQ1)

ON BEHALF OF INRG SOLAR (LITTLE CROW) LTD

DEADLINE 3

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1. APPLICANT'S COMMENTS ON OTHER PARTIES' RESPONSES TO ExQ1

Purpose of this Document

- 1.1 This document is submitted by INRG Solar (Little Crow) Ltd ("the Applicant") and contains the Applicant's comments on other parties' responses to the Examining Authority's written questions and requests for information (ExQ1) submitted at Deadline 2.
- 1.2 The Applicant's comments are presented in a tabulated format.

APPLICANT'S COMMENTS

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|----------|--|-------|---|--|
| REP2-28 | Environment Agency - Annette Hewitson, Principal Planning Adviser | 1.1.1 | <p><i>I write in response to your Rule 8 Letter and 1st Written Questions, for the above project.</i></p> <p><i>The Environment Agency has no objection to the application, as submitted, and has no further comments to submit via Written Representations.</i></p> <p><i>However, we note that question ExQ1 1.1.1 is directed to the Environment Agency, which reads:</i></p> <p><i>"With respect to your particular matters of interest, please comment on what, if any, implications there would be if the generating capacity for the Proposed Development exceeded 150MWp but was no more than 200 MWp".</i></p> <p><i>I can confirm that there are no implications with respect to our interests if the proposed development exceeded 150MWp but was no more than 200 MWp.</i></p> <p><i>Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.</i></p> | The Applicant acknowledges the Environment Agency's response and no further comment is required. |
| REP2-29 | Historic England - Tim Allen, Team Leader (Development Advice) | 1.1.1 | <p><i>ExQ1 Question to: Question:</i></p> <p><i>1. General and Cross-topic Questions, including general matters relating to the Environmental Statement</i></p> <p><i>1.1.1 Anglian Water, Environment Agency, Historic England, Lincolnshire Wildlife Trust, Natural England, North Lincolnshire Council, Northern Powergrid and Public Health England</i></p> <p><i>Background</i></p> <p><i>The Applicant intends to conclude Statements of Common Ground (SoCG) with you prior to the close of the Examination for the submitted application. In that regard the Applicant has submitted draft SoCG between you and it in which the Proposed Development has been described as being for a solar park with a 'maximum design capacity of up to 150MWp and a battery storage capacity of up to 90MW' [paragraph 2.1 of APP-112, APP113, APP-114, APP-116, APP-117, APP-118, APP-119 and APP-120].</i></p> <p><i>Various of the submitted application documents, including Chapter 4 of the ES [APP-061] refer to the Proposed Development having a generating capacity with a range of between 150 and 200 MWp.</i></p> <p><i>Question</i></p> <p><i>With respect to your particular matters of interest, please comment on what, if any, implications there would be if the generating capacity for the Proposed Development exceeded 150MWp but was no more than 200 MWp.</i></p> <p><i>HISTORIC ENGLAND ADVICE</i></p> <p><i>Historic England has no position as regards the generating capacity provided the area of Gokewell Priory is positively managed in the terms set out in the application. Historic England has signed an updated SoCG with the developer which we understand has been submitted.</i></p> | Please note that the amended Statement of Common Ground ("SoCG") referred to in this response has not yet been submitted to the ExA. The SoCG with Historic England is now being updated to take into account the matters raised by the Examining Authority as part of the Rule 6 letter. It is expected that a final SoCG with Historic England would be submitted by Deadline 4. |



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| REP2-027 | North Lincolnshire Council | 1.1.1 | <p>Generating capacity</p> <p>With respect to your particular matters of interest, please comment on what, if any, implications there would be if the generating capacity for the Proposed Development exceeded 150MWp but was no more than 200MWp.</p> <p>Answer</p> <p>NLC do not consider that there would be any implications or additional adverse impact resulting from an increase in generating capacity from 150 to 200 MW. The environmental and other impacts of the development are largely driven by the physical parameters such as the area required for the siting of the panels, the size and layout of the panels, means of access and drainage etc. Should these physical parameters not change as a result of the increase in generating capacity (e.g. due to improvements to the efficiency of the panels) then there would be no new or materially different impacts that would need to be assessed.</p> <p>It is further noted that should improvements in solar panel technology allow for greater efficiency then this would be beneficial in respect of the amount of renewable energy generated. In simple terms, the benefits of the proposed development would increase without any further adverse impact being generated.</p> | <p>The Applicant acknowledges NLC's response and this is consistent with the Applicant's position. No further comment is required</p> |
| | | 1.1.8 | <p>Question Alternatives</p> <p>Under a 'do nothing' scenario for the Proposed Development, where might 150 to 200 MW of electricity be generated as an alternative to the Proposed Development? Is there previously developed land in the area that could be used as an alternative to the Order Limits?</p> <p>Answer</p> <p>NLC is not aware of any parcels of previously developed land within its administrative area that could be used as an alternative to the Order Limits. The Order Limits cover an area of approximately 225 hectares and there are no previously developed sites of this size within North Lincolnshire that the Council is aware of and which are known to be available.</p> <p>Given the land take normally associated with renewable energy schemes it is likely that any previously developed site within North Lincolnshire that could be used to generate 150 to 200 MW of electricity would necessitate the use of more traditional technologies (i.e. the burning of fossil fuels). It is also noted that a major limiting factor in the location of electricity generation proposals is the availability of a grid connection with available capacity. NLC is not aware of any previously developed sites that could be used for the generation of 150 to 200 MW of electricity that are currently available.</p> | <p>The Applicant acknowledges NLC's response and would also refer to the Applicant's response to ExQ1.1.8 (Document Reference 9.24 LC OTH Applicant's Responses to Examining Authority Questions (ExQ1), PINS Reference REP2-022)). No further comment is required</p> |

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| | | 1.1.10 | <p>Question 1.1.10 – Cumulative and in-combination effects With respect to the description of the likely effects on the environment stated in the submitted ES, and having regard to the requirements of Regulation 14(2)(b) and paragraph 5 of Schedule 4 of the EIA Regulations, are there any existing or proposed developments that it is considered should have been included in the Applicant's assessment of the cumulative and in-combination effects of the Proposed Development?</p> <p>Answer There are no additional existing or proposed developments that need to be included in the Applicant's assessment of the cumulative and in-combination effects of the Proposed Development.</p> | The Applicant acknowledges NLC's response and would also refer to the Applicant's response to ExQ1.1.9 (Document Reference 9.24 LC OTH Applicant's Responses to Examining Authority Questions (ExQ1), PINS Reference REP2-022)). No further comment is required. |
| | | 1.4.2 | <p>Question 1.4.2 – Use of footpath 214 Please provide any counts or survey data that may have been undertaken/gathered relating to the use of definitive footpath 214. The Applicant and the Council should agree amongst one another who is best placed to answer this question.</p> <p>Answer NLC does not have any records of counts or survey data in respect of the use of footpath 214; nor are the Council aware of any such counts or surveys being undertaken by private individuals.</p> | The Applicant notes this is consistent with the Applicant's response to ExQ1.4.2 (Document Reference 9.24 LC OTH Applicant's Responses to Examining Authority Questions (ExQ1), PINS Reference REP2-022). |
| | | 1.4.4 | <p>Question 1.4.4 – Status of woodland to the east Please advise what status the woodland to the east of the Order Limits has, i.e. is that land publicly owned or is land to which the public have the right to access it using definitive footpath 214 or other rights of way or permissive routes?</p> <p>Answer The woodland to the east of the order limits is privately owned and managed. The public have a right of access through this land along definitive footpath 214. Other than for FP214, the Council has no information relating to any other access that the public might or might not enjoy within the woods.</p> | The Applicant acknowledges NLC's response and this is consistent with the Applicant's position and understanding. |
| | | 1.4.5 | <p>Question 1.4.5 – Permissive paths Please advise whether the Council is aware of any permissive path routes crossing and/or running around the perimeter of the Order Limits. Should the Council be aware of any such permissive routes, please identify those on a map of an appropriate scale.</p> <p>Answer The Council's PROW officer has confirmed that the local authority do not have any records or maps of permissive paths in the adjacent woodland to the east, or running around the perimeter of the site. The Council is aware that the adjacent woods are used by local residents and believe that the paths that there are in the vicinity of the site, FP214 aside, are informal and the result of landowner toleration as such we are unable to provide any specific details of these paths or a plan showing their locations.</p> | The Applicant acknowledges NLC's response and this is consistent with the Applicant's position and understanding. |

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| | | 1.6.5 | <p>Question 1.6.5 – Requirement 9 With respect to Requirement 9 (outline Construction Traffic Management Plan [CEMP]) of the dDCO [APP-045]:</p> <p>a) In requirement 9(2)9b) what does 'adjoining highway' mean, should the reference be to the public highway? Would the precision of this part of the Requirement be aided by referring to specific road names and/or numbers?</p> <p>b) In Requirement 9(2)(c), what would be the purpose of undertaking, a '...condition survey of any road ...', as there is no requirement to do anything further to respond to the results of the condition survey? Is Requirement 9(2)(c) necessary and/or incomplete?</p> <p>Answer</p> <p>a) It is assumed that 'adjoining highway' means the adopted highway. However for clarification purposes it is suggested that the Requirement should state the road name and/or number.</p> <p>b) Requirement 9(2)(c) is incomplete. The Council as local highway authority consider that this Requirement is necessary but that the Requirement needs to include a requirement that any defects identified as a result of the condition survey that are attributable to the construction works must be rectified by the developer following discussions with NLC.</p> | <p>a) Requirement 9(2)(b) of the dDCO was amended at Deadline 2 (Document Reference 3.1B LC DCO, PINS Reference REP2-003) to include the relevant road numbers.</p> <p>b) The Applicant has amended requirement 9(2)(c) to insert the following wording (new wording in bold text) "a condition survey of any road which will be affected by that phase of authorised development and a further condition survey following that phase of the construction works and in the event that any defects are identified in that condition survey that are directly attributable to that phase of the construction works of the authorised development, details of how those defects are to be remediated by the undertaker."</p> <p>This updated wording is included in the dDCO submitted at Deadline 3 (Document Reference 3.1C LC DCO).</p> |
| | | 1.6.7 | <p>Question 1.6.7 – Requirement 11 With respect to Requirement 11 (Construction hours) of the dDCO [APP-045]:</p> <p>a) Is there a need for construction hours to be stated in a freestanding Requirement or is this a matter that could be included within the Construction Environmental Management Plan subject to Requirement 8?</p> <p>b) If Requirement 11 is to be retained as a freestanding Requirement in any made DCO, should the tailpiece phrase '... unless otherwise agreed by the local planning authority' be deleted?</p> <p>Answer</p> <p>a) NLC are of the opinion that the construction hours could be included in the same Requirement (8) as the CEMP, either mechanism can be enforced should the developer operate outside of the agreed hours.</p> <p>b) Should Requirement 11 remain it is agreed that the tailpiece phrase identified should be deleted.</p> | <p>The Applicant notes that NLC's response varies from its position in relation to this requirement at ISH1. The Applicant considers that requirement 11, including the tailpiece, should remain and would refer to its response to ExQ1.6.7 (Document Reference 9.24 LC OTH, PINS Reference REP2-022).</p> |
| | | 1.6.9 | <p>Question 1.6.9 – Requirement 14 Requirement 14 (Protected species) of the dDCO [APP-045], please review the draft wording for completeness and:</p> <p>a) Is there a need for the provisions of Requirement 14(2) to be contained in a freestanding sub-paragraph or could the inclusion of 'any site preparation works' within what is meant by commencement simply be stated as 'No work,</p> | |

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| | | | <p>including site preparation works, shall be commenced in any phase until a final pre-construction survey has been carried out for that phase...'</p> <p>b) In Requirement 14(3), in the event of a survey finding a protected species to be present, why prior to a mitigation scheme being submitted for approval by North Lincolnshire Council would it be necessary for a pre-consultation to be undertaken with the Council as well as Natural England?</p> <p>Answer</p> <p>a) NLC would be happy for the Requirement to be amended as suggested and if this were done then it is agreed that there would no longer be a requirement for Requirement 14(2) as a freestanding sub-paragraph.</p> <p>b) It is agreed that prior consultation with NLC is not strictly speaking necessary, but it would help to speed up the approval process if NLC were consulted alongside Natural England prior to submission of the mitigation scheme.</p> | <p>a) This was amended in the dDCO submitted at Deadline 2 (Document Reference 3.1B LC DCO, PINS Reference REP2-003)</p> <p>b) This requirement was amended in the dDCO submitted at Deadline 2 (Document Reference 3.1B LC DCO, PINS Reference REP2-003).</p> |
| | | 1.6.11 | <p>Question 1.6.11</p> <p>With respect to the 'Procedure for Discharge of Requirements' set out in Part 2 of Schedule 2 of the dDCO [APP-045] please provide explanations within an updated version of the EM [APP-046] and make any amendments to the dDCO, as necessary, to address the following matters:</p> <p>a) Identify all of the organisations that would constitute a 'discharging authority' for the purposes of Part 2 Schedule 2 of any made DCO;</p> <p>b) Whether the heading for Part 2 of Schedule 2 is correctly titled, given that during the course of Issue Specific Hearing 1 it was explained that some consents from discharging authorities would concern Articles within any made DCO and not just Requirements contained in Part 1 of Schedule 2 of the dDCO.</p> <p>c) Why in Paragraph 21(1)(c) are:</p> <p>i. Appeals concerning the use of sections 60 and 61 of the Control of Pollution Act 1974 being referred to, when there is an appeal mechanism available under that legislation via the Magistrates Court system?</p> <p>ii. If an appeal was to be dismissed, what implications might that decision have for the resolution of the matter if it was then to be remitted to the Magistrates Court as a contravention of sections 60 or 61?</p> <p>Answer</p> <p>Parts a) and b) of this question are left to the applicant to answer. In respect of part c):</p> <p>i. NLC are of the opinion that Appeals concerning the use of sections</p> | <p>The Applicant would refer to the Applicant's responses to ExQ1.6.11 (Document Reference 9.24 LC OTH, PINS Reference REP2-022) .</p> <p>As the Applicant has previously noted, this approach has been used in other made Development Consent Orders such as The Cleve Hill Solar Park Order 2020.</p> |

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| | | | <p>60 and 61 of the Control of Pollution Act 1974 should not be included in the 'Procedure for Discharge of Requirements' set out in Part 2 of Schedule 2 of the dDCO [APP-045] as there is an existing appeal mechanism available under that legislation via the Magistrates Court. Paragraph 21(1)(c) does not relate to the discharge of Requirements and would unnecessarily duplicate the existing appeal mechanism under separate legislation. Furthermore, were this section to remain it could hinder the ability of the local authority to take expedient action to address issues of noise during construction as the timeframe for submitting an appeal set out in paragraph 21(2)(a) at 42 days is significantly longer than the 21 days period for submitting an appeal set out in sections 60 and 61 of the Control of Pollution Act.</p> <p>ii. It is not clear what the implications might be should such an appeal be dismissed, if it were to be remitted to the Magistrates Court as a contravention of sections 60 or 61. NLC would reiterate its position that the creation of a new appeals mechanism in respect of sections 60 and 62 constitutes unnecessary duplication of an existing and well established appeal mechanism and can only cause confusion and delay in enforcing these matters whilst offering no clear benefits or efficiency gains.</p> | <p>It is important for the Applicant to have certainty and consistency in relation to the authorised development and the procedures to be followed pursuant to requirements and appeals. An appeal to the Magistrates Court would leave the Applicant with no clear timing on the path to a decision. The appeal process set out in Part 2 Schedule 2 of the dDCO (Document Reference 3.1B LC DCO, PINS Reference REP2-003) provides consistency in respect of appeals under the DCO and a clear timetable for how they will be dealt with. This ensures the 'one-stop' process that a Development Consent Order can provide is maintained, and the Applicant sees no reason why the authorised development should not benefit from this. The Applicant also regards this as streamlining the process since the timeframes set out are fixed and not subject to the Magistrates case management. The procedure will be set out in the Order so there is no reason for any confusion.</p> <p>With regard to the duplication concern, as explained in the Applicant's response to ExQ11.6.11, this is not the case – whilst both mechanisms are available at the outset, only one appeal mechanism can be pursued and once a route has been selected, the decision in that appeal will be final.</p> |
| | | 1.6.12 | <p>Question 1.6.12 – Provisions of the dDCO</p> <p>With respect to the provisions of the dDCO [APP-045], please advise:</p> <p>a) Whether there are any Articles or Requirements that the Council considers should be included within or removed from the dDCO and if so explain why that is the case. If it is considered there are any omissions, please submit wording for any suggested additions to the Articles and/or Requirements.</p> <p>b) Whether the Council has any detailed drafting concerns relating to any part of the dDCO. If there are any such concerns, please provide suggested revisions to the Applicants drafting to APP-045, together with any explanations as necessary.</p> <p>Answer</p> <p>a) North Lincolnshire Council has produced a Local Impact Report in respect of the proposed development. The LIR, amongst other things, gives consideration to the Requirements proposed in the dDCO. Alterations to Requirements 11 (Construction hours) and 13 (Archaeology) of the dDCO are suggested at paragraphs 8.5 and 7.28 of the LIR respectively.</p> <p>An additional Requirement relating to the details of plant and securing noise mitigation where necessary has also been suggested at paragraph 8.4 of the LIR.</p> <p>The reasons for the proposed changes are provided within the LIR along with the suggested wording.</p> | <p>a) Please refer to the Applicant's Response to the Local Impact Report (Document Reference 9.30 LC OTH Applicant's Comments on LIR) which responds to each of these points.</p> <p>b) The Applicant is pleased to note that NLC does not wish to raise any drafting concerns with regard to the dDCO.</p> |

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| | | | b) NLC does not wish to raise any drafting concerns with regards to the dDCO | |
| | | 1.8.2 | <p>Question 1.8.2 – Landscape and visual mitigation Does the Council have any comments to make about the adequacy of the proposed landscape and visual mitigation measures for the effects of the Proposed Development during its operational and construction phases?</p> <p>Answer NLC agrees with the approach to the assessment and mitigation of landscape and visual impacts, as set out in section 6 of the environmental statement (APP-063). The Solar Park will affect a significant area of land and will represent a significant change in the landscape, particularly for users of Footpath 214. For other receptors, the development will largely be screened by existing vegetation, including the Broughton Woods Complex. Significant landscape enhancements are proposed, as set out in the outline Landscape and Ecological Management Plan. This incorporates advice given by North Lincolnshire Council and will be secured by the draft text of requirement 10. Assuming the proposed approach to mitigation and enhancement is followed through the requirements of the Order, then the Council considers the overall effect to be neutral or minor positive.</p> | The Applicant is pleased to note that NLC agrees with the approach to the assessment and mitigation of landscape and visual impacts as set out in the ES (Document Reference 6.6 LC ES CH6, PINS Reference APP-063) and that NLC considers the overall effect to be neutral or minor positive. |
| | | 1.8.3 | <p>Question 1.8.3 – Restoration As part of the decommissioning of the Proposed Development, please provide the Council's views on how the land within the Order Limits might be restored. In particular, please comment on whether the intended screen planting along the route of definitive footpath 214 should be retained having regard to any visual effects for the users of the footpath and the biodiversity value provided by any retained screen planting.</p> <p>Answer NLC would wish to see the continuation and enhancement of the landscape and biodiversity benefits, if at all possible. We agree with the decommissioning process described in the LEMP, which would be based on ecological surveys and the implementation of mitigation and enhancement measures for any notable habitats or species recorded. Upon removal of the solar farm infrastructure, any disturbed grazing land should be returned to grazing. This may necessitate re-seeding with a wildflower and grass mix, as described in the LEMP or may be achievable through natural regeneration from the soil seed bank and surrounding sward. Ideally, the sensitive cultivation of the arable plant margins should continue and the acid grassland should be positively managed.</p> | <p>The Applicant is pleased to note that NLC agrees with the decommissioning process described in the Outline LEMP, secured through requirement 10 of the dDCO.</p> <p>The Applicant notes the suggestion that some land should be returned to grazing as part of the decommissioning process. It should be noted that the land is not currently predominantly used solely for grazing. However, the Applicant understands that the Estate currently undertakes grazing across circa 800ha, utilising 1000-2000 sheep typically for grazing off winter grass and cover crops on arable land, prior to spring cropping.</p> <p>Following removal of solar farm infrastructure, the land will be returned to estate use, with the specific practices determined by the practicalities of maintaining the estate. Where there is a need for any particular management tool to preserve biodiversity benefits this will be identified prior to restoration, and will be based on the updated ecology surveys and nature conservation priorities at the time. It would be inappropriate to specify which management practices would be suitable to this end at present.</p> |

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| | | | <p>Turning to the hedgerows along footpath 214: Under The Hedgerow Regulations 1997, any hedgerow that is more than 30 years old, species-rich and adjacent to grazing land and a footpath is likely to qualify as "important" and should therefore be retained. At the time of writing, such a hedgerow would also qualify as a habitat of principal importance (priority habitat) in terms of section 41 of the Natural Environment and Rural Communities Act 2006.</p> <p>At the time of writing the adopted Landscape Character Assessment and Guidelines document (SPG5) gives the following guidance for this area: Wooded Scarp Slope – Manton, Raventhorpe and Santon Landscape Strategy: Seek to conserve the wooded character of this escarpment feature whilst also developing local opportunities to plant new woodland and hedgerows and encourage ecological diversity.</p> <p>Landscape Guidelines: Seek to conserve, enhance and encourage further tree cover along the scarp slope and also the development of hedgerows, particularly where linking with woodland blocks, to maximise possibilities for habitat linkage and wildlife dispersal.</p> <p>Promote woodland and hedgerow management to re-structure excessively even-aged woodland and ensure the continuation of valuable habitat resources.</p> <p>Therefore, in landscape terms, the guidance suggest that the hedgerows should be retained and positively managed.</p> | |
| | | 1.8.4 | <p>Question 1.8.4 - Receptors The Landscape and Visual Impact Assessment references "Users of publicly accessible paths" and "Users of the transport network" as visual receptors [paragraphs 6.3.43 to 6.3.46 of PDA-006]. The assessment of the impact of the Proposed Development is confined to users of footpaths and motorists. Other non-motorised users such as cyclists and equestrians are not referenced. What is the potential for effects on cyclist and equestrian receptors?</p> <p>Answer Footpath 214 gives the public a right of way on foot only and should not be used by cyclists or equestrians. There is the potential for the Proposed Development to impact upon cyclists and equestrians using the public highway; however these impacts are unlikely to be materially different to those already assessed in respect of motorists using the highway.</p> | The Applicant acknowledges NLC's response and no further comment is required |

