

North Lincolnshire Council response to the Examining Authority's second set of written questions for the Little Crow Solar Park Project

Question 2.2.1 – Sheep Grazing

The Council in paragraph 6.5 of its Local Impact Report (LIR) [REP2-026] has referred to grazing not taking place at operational local solar farms. Please:

- a) advise how many operational solar farms are being referred to in paragraph 6.5 of the LIR;*
- b) comment on why grazing is understood not to be taking place at the operational solar farms referred to in paragraph 6.5 of the LIR; and*
- c) comment on whether the Council considers sufficient grass could be grown under the proposed solar arrays to enable sheep to be grazed either on a commercial or non-commercial basis.*

Answer

- a) There are 2 operational solar farms within North Lincolnshire where the Council are aware that sheep grazing was proposed and has not taken place. These are Raventhorpe Solar Farm to the south of the Little Crow site (details already provided) and Flixborough Solar Farm (copy of the decision notice and officer assessment provided).
- b) North Lincolnshire is an area of primarily arable farming and as such it is likely that a grazier would have to be found that was willing to rotate their flock onto the land. This may not be possible due to either a lack of a grazier in the area or that there is alternative grazing land within the area without the restrictions likely to be associated with the presence of a solar farm. It is also noted that the 2 operational solar farms referred to are both smaller in area than that proposed at Little Crow and as such there would be less grass to sustain sheep grazing.
- c) As stated above the application site is larger than the existing solar farms within the area and as such there would be greater potential for the site to sustain sheep grazing either on a commercial or non-commercial basis. It is also noted that in their response to para. 6.5 of NLC's LIR (REP3-014) the applicant confirms that landowner currently undertakes grazing of their land utilising between 1000 and 2000 sheep and as such the use of sheep grazing as a management regime would not be a new activity to the Estate. Given the size of the site and the stated experience and availability of sheep for grazing NLC are of the view that there is a real potential of sheep grazing being

possible on this solar farm project. However as discussed in ISH2 it would still be appropriate for the outline LEMP to detail alternative maintenance arrangements should sheep grazing not prove viable in the future.

Question 2.3.2 – Air Quality

The Applicant's Air Quality and Carbon Assessment [REP2-012] refers to the Order Limits being in an Air Quality Management Area (AQMA) that has been declared by the Council because of exceedances of the air quality objective for PM10. Please provide a copy of the AQMA, including a map showing its extent, and any annual monitoring results for the AQMA since its declaration that are in the public domain.

Answer

The AQMA for Scunthorpe was declared on 01/11/2005 and was later amended to reduce the area of the AQMA on 19/03/2018. A copy of the declaration for the amended AQMA (2018) has been provided along with a copy of a map showing the AQMA area.

NLC submit an Annual Status Report by 30 June each year to DEFRA in relation to air quality. A copy of the 2020 Status Report has been provided and this report actually provides air quality data in respect of the AQMA for the past 5 years. The 2021 Annual Status Report has been submitted to DEFRA; however this report is still awaiting appraisal and as such is not yet in the public domain.

In addition to the above, please note that copies of all reports and monitoring produced pertaining to the Scunthorpe AQMA since it was declared can be accessed via the following website: www.nlincsair.info via the 'Reports and Guidance' tab.

Question 2.6.6 – Requirement 4

With respect to Requirement 4 in Part 1 of Schedule 2 of the dDCO [REP3-003]:

- a) In subparagraph (1) is there a need to refer to the potential for there to be multiple schemes, if so, should all references to scheme in this subparagraph appear as 'scheme(s)'?*
- b) In subparagraph (2)(a) do either 'landowner' and/or 'substation operator' need to be defined and be included in the interpretation within either Article 2 or Requirement 1?;*
- c) In subparagraph (2)(a) in the interests of clarity, should the bracketing of 'with the exception of ... by the substation operator' be deleted and replaced with a comma after 'authorised development' in the first line?*

d) In subparagraph (3) is there a need for ‘... and within the period set out in ...’ to be included given that under subparagraph (1) there would be a requirement for the decommissioning and restoration scheme to accord with the outline decommissioning strategy, which in its Deadline 3 version [REP3-009] refers to an anticipated period of 11 months for those works to be completed? In the interests of clarity should the existing wording be substituted with ‘The decommissioning of the authorised development and the restoration of the land affected by the authorised development must be undertaken in accordance with the approved decommissioning and site restoration scheme’ (or schemes depending on the answer to part a) of this question?

Answer

- a) NLC would expect that a single decommissioning and site restoration scheme would be submitted for the whole site and as such there would be no need to refer to the potential for multiple schemes.
- b) Whilst they are relatively commonplace references that are widely used and generally understood, for clarity NLC would suggest that ‘landowner’ and/or ‘substation operator’ could be defined in Requirement 1 in Part 1 of Schedule 2.
- c) NLC agree with the suggested amendment.
- d) Whilst not it may not be necessary, NLC would prefer to see the text for subparagraph 3 remain as this makes it clear for everybody that the decommissioning and restoration works must be undertaken in accordance with both the details and timings set out in the approved decommissioning and restoration scheme.

Question 2.6.8 – Requirement 8

With respect to Requirement 8(2)(h) (protocol in the event of unexpected contamination) [REP3-003] should the consultation referred to include North Lincolnshire Council as well as the Environment Agency?

Answer

It is agreed that as regulators of contaminated land under Part 2A of the Environmental Protection Act 1990, North Lincolnshire Council should be included in Requirement 8(2) (h) as requiring consultation in the event that unexpected contamination is encountered.

Question 2.6.11 – Requirement 13

In relation to Requirement 13 (archaeology) of the dDCO [REP3-003], further to the submission of the Council's LIR [REP2-026] and the Applicant's comments in response to the LIR, it appears that the Applicant is placing significant reliance upon the submission of and the subsequent approval of a 'written scheme of investigation' (WSI). For the avoidance of doubt and to ensure that the various archaeological commitments that the Applicant has made would be included in the WSI submitted for approval, should an outline WSI be submitted as an Examination document, which could then be referred to in Requirement 13 of the dDCO, similar to the approach that would be followed for compliance with the outline CEMP and the outline LEMP referred to in Requirements 8 and 10 of the dDCO?*

*(*Such as: works affecting any as yet unidentified lime kilns; works other than hedge pruning on Ermine Street; identifying the locations where archaeological investigation would be appropriate; and responding to the discovery of human remains [stated in either Chapter 8 of the ES [APP-065] or REP3-014])*

Answer

NLC are of the view that an outline Archaeological Mitigation Strategy would be beneficial to all parties, to draw together the various archaeological commitments proposed to avoid or minimise harm or to offset the effects of the development where harm is unavoidable. It is noted that this document should, as detailed above, be in the form of an outline Mitigation Strategy and not an outline WSI, which would normally only detail the methodology for a programme of archaeological investigation and recording (such as an excavation or watching brief) rather than setting out avoidance and/or management measures.

Further to the above, NLC welcome the amendments made to Requirement 13 of the dDCO (REP3-003).

Question 2.6.12 – Requirement 14

With respect to Requirement 14(2) (protected species) [REP3-003], is there a need for a reference to there being pre-consultation with the local planning authority about the content of the mitigation scheme, given that the local planning authority would be the determining authority for submissions made under Requirement 14 and none of the other requirements in the dDCO involving the approval of details include a pre-consultation mechanism with the local planning authority?

Answer

It is agreed that there is no specific need for a mechanism to secure pre-consultation with the LPA in respect of Requirement 14. Pre-consultation is something that may benefit the applicant and would normally be undertaken as a matter of good practice but as the LPA is ultimately the determining authority for submissions under Requirement 14 this is not something that is obligatory or needs to be secured in the DCO.

Question 2.6.15 – Sections 60 and 61 of the CPA 1974

With respect to appeals being made against notices or consents issued under sections 60 and 61 of the Control of Pollution Act 1974 (CPA1974) (paragraph 22 in Part 2 of Schedule 2 of the dDCO [REP3-003]), the ExA notes the comments made by the Applicant and North Lincolnshire Council during ISH1 and in REP2-022, REP2-027 and REP3-013.

Please comment on the justification for any consent that might be issued pursuant to section 61 of the CPA1974 being subject to the appeal mechanism proposed in the dDCO, given that the procedure for issuing any section 61 consent of itself would not be governed by any of the provisions included in any made DCO and would not be comparable with the discharging of the Requirements included in Part 1 of Schedule 2 of the dDCO.

Answer

As discussed during ISH2 and in its responses to ExQ1 (REP2-027) NLC would reiterate its view that appeals made against notices or consents issued under sections 60 and 61 of the CPA1974 should not be subject to the appeal mechanism proposed in the dDCO. It is considered that this would represent an unnecessary duplication of an existing appeal mechanism and would add unnecessary complication.