



Meeting note

Project name	Little Crow Solar Park
File reference	EN010101
Status	Final
Author	The Planning Inspectorate
Date	23 April 2020
Meeting with	INRG SOLAR (Little Crow) Ltd
Venue	Teleconference
Meeting objectives	Project update and draft documents feedback discussion
Circulation	All attendees

Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Project update

The Applicant updated the Inspectorate on its progress since the last meeting, this mostly centred on the drafting of Statements of Common Ground with a range of stakeholders. It expected these drafts to be finalised by the point of submission.

The Applicant told the Inspectorate that it was considering extending the operation period within the draft Development Consent Order from 35 to 40 years and asked whether this would require any other changes or further consultation. The Inspectorate replied, indicating that the Applicant would need to ensure the Environmental Statement assessed the worst-case scenario. On consultation, the Inspectorate said the Applicant should review the [pre-application guidance](#), seek its own legal advice, and consider whether consultation responses would've changed if the Applicant had consulted on the basis of a 40 year period rather than the 35 year period.

Draft Documents

The Inspectorate reviewed the following draft documents provided to the Inspectorate on 5 February 2020:

- Draft Development Consent Order
- Explanatory Memorandum
- Sample of Plans
- Environmental Statement

A brief discussion of the Inspectorate's comments on the draft documents was held. Detailed comments are provided in the Table below.

The Inspectorate also provided some generic advice on the Consultation Report, suggesting that the Applicant should prepare its own version of the s55 checklist to ensure that all statutory requirements within the Planning Act 2008 and secondary legislation were recorded and that it was clear how these had been met.

Covid-19

The Applicant queried whether the Inspectorate felt there were any restrictions to its ability to submit its Application in light of current Government guidance. The Inspectorate said it was operating business as usual in respect of Acceptance and therefore there would be no delays in this period. The Inspectorate sounded a note of caution in regard to section 56 of the Planning Act 2008 and whether the Applicant could meet all the requirements thereof.

Little Crow Solar park

Section 51 Advice –draft Application Document by INRG SOLAR (Little Crow) Ltd for review by the Planning Inspectorate

This advice relates solely to matters raised upon the Planning Inspectorate’s review of the draft application documents submitted by Little Crow Solar Park (“the Applicant”), and not the merits of the proposal. The advice is limited by the time available for consideration and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

Abbreviations Used	
PA2008	Planning Act 2008
BoR	Book of Reference
DCO	Development Consent Order
EM	Explanatory Memorandum
SoS	Secretary of State
ExA	Examining Authority
NSIP	Nationally Significant Infrastructure Project
PINS	Planning Inspectorate

General Drafting points

1. The Applicant should ensure that when the development consent order (DCO) is finalised all internal references and legal footnotes are checked and that the drafting follows bests practice in Advice Note (AN) 13 and 15 and any guidance on statutory instrument drafting.
2. A thorough justification should be provided in the Explanatory Memorandum (EM) for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power.
3. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the Examining Authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

4. Where drafting precedent has been set by previous DCOs the Applicant must fully justify why it is relevant to this particular DCO application.
5. The Applicant must undertake a comprehensive review of the drafting and content of the DCO and Explanatory Memorandum (EM) prior to the submission of the application.

Draft Development Consent Order (DCO)		
Q No.	Article (A)/ Requirement (R)	Comment/Question
1.	General	The Applicant should ensure that all cross references within the dDCO are checked and corrected where necessary/relevant, this includes references to any plans.
2.	General	The Applicant will be asked to maintain a list of all plans and other documents that will require SoS certification (including plan/document references), updated throughout the examination process, and supplied to the ExA before the close of the examination.
3.	General	The DCO is proposed to be a Statutory Instrument (SI) and so should follow the statutory drafting conventions. The draft DCO (and any subsequent revisions) should be in the form required by the statutory instrument template (see Planning Inspectorate AN15) and validated as such using the current SI template, including detailed footnotes to all statutory references.
4.	General	The application DCO and any subsequent versions submitted to the examination: <ul style="list-style-type: none"> • should be supplied in both .pdf and Word formats, the latter showing any changes from the previous version by way of tracked changes, with Word comments briefly outlining the reason for the change. • The examination timetable will usually provide a deadline for receipt of the Applicant's final or preferred version of the DCO. That version should be supported by a report of the outcome of validating it through the Publishing section of the www.legislation.gov.uk website.
5.	General	Please can the Applicant review for typos prior to formal submission and make any necessary corrections (for example the definition of "Existing Overhead Lines").
6.	Schedule 1 (6)(f)	The rationale for this broad category of additional work should be explained in the EM.
7.	Schedule 2	The Applicant's wish to construct the authorised development in stages is noted. It would be helpful to know when and how these stages will be developed and recorded. It would be helpful to know the Applicant's preliminary thinking at this point.
8.	Article 9 and Schedule 3	Both permit the Applicant to stop up/divert Public Rights of Way (one footpath is referred) on a temporary basis. The Duration of that stopping up/diversion should be stated (and limited) in the dDCO.

Draft Development Consent Order (DCO)		
Q No.	Article (A)/ Requirement (R)	Comment/Question
9.	Article 14	The rationale for this should be stated in the EM.
10.	Article 17	The rationale for this should be stated in the EM (see section 5.21).
11.	Article 18	The power in this Article extends to vegetation "near" to the authorised development and is not (for example) limited to vegetation within the Order Limits. The rationale for this broad power should be stated in the EM.

Explanatory Memorandum (EM)		
Q No.	Paragraph	Question/comment
1.	General	<p>Further explanation and evidence (including the outcomes of any consultation) is required to explain why the content of each article, schedule etc to the dDCO is relevant and required for this proposal.</p> <p>Please refer to AN15. The EM should provide explanation and justification where a provision departs from the model provisions or a precedent. (See AN13 and 15). This should include reference to the particular circumstances of this development and an explanation as to why this is necessary or desirable. The Applicant should also check that all references to legislation and guidance are accurate.</p>
2.	General	Please can the Applicant review for typos prior to formal submission and make any necessary corrections (for example the definition of "Existing Overhead Lines").
3.	Section 2.10	The description of the additional development is not quite clear as it could be and does not mirror the description on Schedule 1 of the dDCO
4.	Sections 2.11 – 2.12	The Applicant's wish to construct the authorised development in stages is noted. It would be helpful to know when and how these stages will be developed and recorded.
5.	Section 5.20	This does not reflect the actual content of Article 16 of the dDCO.

Draft Plans			
Q No.	Plan Ref	Extract from Plan Key (for ease of reference)	Question/Comments
1.	All Plans	<i>Regulations 2009 Document Paragraph Reference Number</i>	Will the specific information be provided in each Key?

Draft Plans			
Q No.	Plan Ref	Extract from Plan Key (for ease of reference)	Question/Comments
2.	All Plans		Plans have been provided in 1:2500 and then split into parts and provided in 1:1000, is this necessary?
3.	All Plans		Could the General Arrangement Plans not also show what is shown in the Trench Plans?
4.	All Plans	<i>Planning Application Boundary</i>	Would the term Order Limits be more appropriate?
5.	Multiple Plans		Some Plans submitted do not have specify which Regulation they will be submitted under, are you intending to clarify this on submission?
6.	Public Rights of Way Plans	<i>Regulation 5(2) o</i>	Will these not be submitted under: Regulation 5(2) (k) where applicable, a plan identifying any new or altered means of access, stopping up of streets or roads or any diversions, extinguishments or creation of rights of way or public rights of navigation?
7.	Public Rights of Way Plans	<i>Existing Public Footpath</i>	Unclear whether this means Existing Public Footpath to be stopped up or to be retained?

Draft Environmental Statement (ES)			
Q No.	Paragraph/ Section	Extract from [abbreviation of doc] (for ease of reference)	Question/Comments
1.	4.7.1 & 4.7.3	The footprint of the battery storage compound is given as both 3500 m2 and 5500 m2.	This discrepancy in the total footprint of the battery storage compound requires clarification. The ES should be consistent in its presentation of the design parameters applicable to the assessment.
2.	4.8.3	Project description	No figure is provided for the maximum height of the substation building – parameters are required.

Draft Environmental Statement (ES)			
Q No.	Paragraph/Section	Extract from [abbreviation of doc] (for ease of reference)	Question/Comments
3.	Figure 4.2 Development Drawing A19BOC0 (compared to A10BOC0 of the Scoping Request)		Some changes to the development have been made compared to the parameters set out in the Scoping Request. For example, the total number of solar modules has been reduced, and the angle at which they are fixed has changed. The ES should be based on the Scoping Opinion in so far as the Proposed Development remains materially the same as the Proposed Development described in the Applicant's Scoping Report (paragraph 3.1.2 of the Scoping Opinion). The Applicant may wish to consider explicitly setting out in a table the sum of changes that have been made to the proposed development since scoping and providing justification for why these changes aren't considered material.
4.	9.8.14	The proposed development is estimated to result in "the addition of 32 HGV movements and between 10-14 LGV movements over a daily period".	Comment 4.72 of the Scoping Opinion states that "due to the site's partial location within Scunthorpe Air Quality Management Area (AQMA) and the potential uncertainty in traffic numbers" an assessment of construction vehicle emissions should not be scoped out. The Opinion references IAQM-Environmental Protection UK (EPUK) guidelines criteria (Table 6.2 of that guidance ¹) which suggests that a change in Heavy Duty Vehicle flows of more than 25 AADT within or adjacent to an AQMA may require air quality assessment. However, no air quality assessment has been presented in the draft ES. The Applicant should demonstrate that it has considered the impact of the Proposed Development on the Scunthorpe Air Quality Action Plan.

¹ Institute of Air Quality Management (2017) Land-Use Planning & Development Control: Planning For Air Quality
<http://www.iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf>

Draft Environmental Statement (ES)			
Q No.	Paragraph/Section	Extract from [abbreviation of doc] (for ease of reference)	Question/Comments
5.	Technical Appendix 3.1 Flood Risk Assessment (FRA)		<p>The Environment Agency (EA) has produced guidance on making allowances for climate change (climate change allowances) when conducting a Flood Risk Assessment (FRA). The Applicant should ensure they have used the most up to date climate change allowances provided by the EA which should be accessed using the following website: https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances#adaptive.</p> <p>If Applicants choose to deviate from guidance provided by the EA, concerning climate change allowances and FRA, this should be done under the consent of EA, Lead Local Flood Authority and relevant consultation bodies. Agreements reached to this end should be clearly evidenced within the Environmental Statement (ES) and/or supporting appendices.</p>
6.	Section 7, Table 7.1, Summary of Consultation	<p>NE agreed with the conclusions with Andrew Taylor that it was highly unlikely that the proposals would result in a significant impact on the interest features of the Humber Estuary SPA or Ramsar site. DAS was not considered necessary.</p> <p>Determination of no significant effect (No HRA needed).</p>	<p>The Planning Inspectorate stated that they agreed with the conclusions of the Applicant (at the Scoping Stage), that the development is unlikely to have an impact pathway or Likely Significant Effects (LSE) on European designated sites. However, as stated in the Planning Inspectorate Advice Note 10 (see chapter 4), the Applicant should then provide the results of their assessment with the DCO application in the form of a No Significant Effects Report (NSER).</p>

Book of Reference/Funding Statement/Statement of Reasons

Question/comment

The EM states that *"the Authorised Development does not require the compulsory acquisition of land or rights. Any rights or interests that will be affected have been secured by private agreement"*. However, PINS has not been given information about those "private agreements".

Book of Reference (BoR)

Regulation 5 (2)(d) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 requires applications for an order for development consent to be accompanied by *"where applicable, the book of reference"*.

Regulation 7(1) defines a BoR as a book in five parts together with any relevant plans:

Part 1 contains the names and addresses for service for each person within Categories 1 and 2 set out in Section 57 PA2008 in respect of land which it is proposed will be subject to:

- powers of CA,
- rights to use land including the right to attach brackets or other equipment to buildings or
- rights to carry out protective work to buildings.

Part 2 contains the names and addresses of each person within Category 3 as set out in section 57.

Part 3 contains the names of all those entitled to enjoy easements or other private rights over land which it is proposed will be extinguished, suspended or interfered with.

Part 4 contains any Crown interest in the land.

Part 5 contains any special category land.

Section 57 (1) Planning Act 2008 defines Category 1 as a person who is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

Section 57(2) defines Category 2 as a person who is interested in the land, or has power to sell and convey or to release the land.

Section 57(4) defines Category 3 as a person who, if the order sought by the application were to be made and fully implemented, would or might be entitled to make a relevant claim.

Even if the Applicant does not intend to seek any Compulsory Acquisition (or Temporary Possession powers) there may still be persons within Category 1-3 who need to be included within parts 1 and 2 of a BoR. If the Applicant does not think that there are any Category 1-3 persons, they should explain their reasons for this conclusion.

Book of Reference/Funding Statement/Statement of Reasons

Question/comment

Equally, if the proposed development would involve any of the matters set out in Parts 3-5 of a BoR, a BoR should be provided and if not, they should explain their reasons for this conclusion.

If the Applicant identifies any category 3 persons these must be included in the BoR along with the statutory undertakers whose rights are to be extinguished.

If the Applicant does not submit a BoR they should explain their reasons for this by reference to the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. The Applicant should also ensure that all references to the BoR are removed from the DCO and EM.

Statement of Reasons/Funding Statement

Regulation 5(2)(h) of the 2009 Regulations provides that where a proposed order for development consent would authorise the compulsory acquisition of land or an interest in/right over land, the applicant must provide a statement of reasons and a statement to indicate how that order is proposed to be funded.

The DCLG Guidance (on procedures related to the compulsory acquisition of land) confirms that the Statement of Reasons should seek to justify the compulsory acquisition sought and explain in particular why in the applicant's opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights.

If the Applicant does not intend to seek any CA (or TP) powers, they are not required to provide a Statement of Reasons or Funding Statement.

General

1. Where references are provided to other Application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for purpose of sign-posting) as well as their respective reference number.
2. [DCLG: Application form Guidance](#), paragraph 3 states: *The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be*

accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.