

## **NLC WRITTEN RESPONSE TO EXAMINING AUTHORITY REGARDING NORTH LINCOLNSHIRE GREEN ENERGY PARK**

1. At the hearing on 8 March, the Examining Authority requested that North Lincolnshire Council ('NLC') provide a written position statement with regard to the compulsory purchase powers proposed within the draft DCO.
2. The documents submitted to date show that NLC have provided a balanced view identifying both the benefits and impacts of this application see for example the LIR.
3. The Applicant argues that delivery of the DCO scheme requires land and/or rights over land owned by NLC. These parcels of land are identified in the plans in the Book of Reference, and the Compulsory Acquisition Schedule submitted. NLC has no positive case to say that those parcels or lands and/or rights over those parcels of land are not required to deliver the DCO development or required to facilitate or incidental to the DCO. Nor does NLC dispute the evidence from the Applicant that the identified land owned by them is required. Therefore, NLC wishes to defer to the judgment of the Examining Authority on whether the land meets the test in s.122(2) Planning Act 2008.
4. With regard to the test in s.122(3) Planning Act 2008, NLC does not consider this to be met. Whilst the development considered through the DCO process may have some merit, it does not automatically follow that the test in s.122(3) Planning Act 2008 is met. In *R. (FCC Environment) v SSECC* [2015] Env L.R. 22 the Court of Appeal confirmed this to be the position and set out examples where compulsory purchase powers may not be justified within the DCO despite the proposal drawing support from the relevant NPS. At paragraph [11] of the judgment, the Court of Appeal endorsed the following examples of where compulsory purchase powers were not justified under s.122(3) Planning Act 2008:  
  
*The land may be necessary but, during the course of the Panel's consideration of the application, the owner may agree to sell it willingly rather than by compulsion (a common scenario in compulsory purchase inquiries).*
5. NLC has received an offer from the applicant in an open letter of 3 March 2023. The Council understands that offer to still be available and it is considering its response. In those circumstances there is no case that the land must be acquired by compulsion and s.122(3) Planning Act 2008 is not met.
6. Subject to the consideration of the Examining Authority, the Council may agree to sell willingly rather than by compulsion. The Council will enter into further correspondence with the applicant once the application has been determined.