

Application by The North Lincolnshire Green Energy Park Limited for North Lincolnshire Green Energy Park

The Examining Authority's written questions and requests for information (ExQ3)

Issued on 17 April 2023 – Response due by Deadline 8: 28 April 2023

Please find below answers to the Examining Authority's written questions from the Environment Agency (EA) [ID no. 20032333].

Ref No.	Question	EA response
1	General and Cross-topic Questions	
Q1.0.1	<p>Vermin Control</p> <p>(i) In light of the ongoing concerns identified by AB Agri in their D7 objection and the expectation that appropriate vermin control would be in place as set out in NPS EN-3 paragraphs 2.5.59 – 2.5.63. Can each party respond setting out their position on whether the DCO and supporting mitigation documents provide the necessary controls, or whether any additional measures should be secured?</p> <p>(ii) Is there a justification for additional controls as paragraph 2.5.63 of NPS-EN3 suggests might be appropriate? If this is considered appropriate, how should the DCO or mitigation measures be adjusted to resolve any concerns?</p>	<p>The Environment Agency can only provide comment on the appropriateness of such matters during its determination of an Environmental Permit application. The operator will be required to produce a written management system as part of their environmental permit and this will include consideration of odour, insect and vermin management.</p> <p>The Environment Agency can impose a condition on an Environmental Permit so that within the operational boundary of the site the activities shall not give rise to the presence of pests ('pests' being birds, vermin and insects). An example of such a condition would read:</p> <p><i>The activities shall not give rise to the presence of pests which are likely to cause pollution, hazard or annoyance outside the boundary of the site. The operator shall not be taken to have breached this condition if appropriate measures, including, but not limited to, those specified in any approved pests management plan, have been taken to prevent or where that is not practicable, to minimise the presence of pests on the site.</i></p> <p><i>The operator shall:</i></p>

Ref No.	Question	EA response
		<p><i>(a) if notified by the Environment Agency, submit to the Environment Agency for approval within the period specified, a pests management plan which identifies and minimises risks of pollution from pests;</i></p> <p><i>(b) implement the pests management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.</i></p>
3	Air Quality and Emmission	
Q3.0.1	<p>Plumes: In light of the comments made by Mr Nicholson on behalf of Residents Against Incinerators (RAIN) in [REP5-045] and the Applicant's response in [REP6-033] could each party provide an update of their position in respect of the issues raised and the response provided by the Applicant and the further detail provided by Mr Nicholson at Deadline 7.</p>	<p>The Environment Agency has not undertaken a detailed review of the Applicant's air quality impact assessment and will only do this during its determination of an environmental permit for the site, as mentioned in paragraph 8.1 of its Relevant Representation [RR- 060]. We do not have the resources to undertake a review of Mr Nicholson's model, therefore, we are unable to provide any comment on this issue.</p>
Q3.0.2	<p>Odour Control AB Agri maintain their objection in their D7 submission to the proposal. They continue to explain the potential for negative pressure not to be maintained. The ExA understands the operating regime proposed by the Applicant, but to date there has not been as far as we are aware an explanation of what could happen in the event of a failure of a system, a malfunction, or some other unplanned event. (i) Can each party please respond setting out how they expect that this should be dealt with,</p>	<p>The Environment Agency can only provide comment on the appropriateness of such matters during its determination of an Environmental Permit application. The operator will be required to produce a written management system as part of their environmental permit and this will include consideration of odour management.</p> <p>At this time we can only provide general advice that the Environment Agency can impose a condition on an Environmental Permit so that within the operational boundary of the site the activities shall not give rise to odour. An example of such a condition would read:</p>

Ref No.	Question	EA response
	<p>and what process should be in place to manage such an eventuality.</p> <p>(ii) Can the Environment Agency explain whether an Environmental Permit would be expected to have controls in place to cover such eventualities, or if in their view this should be controlled through a mechanism within the DCO</p> <p>(iii) If it is to be managed/controlled through the DCO, can each party explain what the control mechanism is and whether they consider this to be appropriate.</p>	<p><i>Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour.</i></p> <p><i>The operator shall:</i></p> <p><i>(a) if notified by the Environment Agency that the activities are giving rise to pollution outside the site due to odour, submit to the Environment Agency for approval within the period specified, an odour management plan which identifies and minimises the risks of pollution from odour;</i></p> <p><i>(b) implement the approved odour management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.</i></p>
5	Biodiversity, Ecology and Natural Environment (including HRA)	
	<p>Report on the Implications for European Sites (RIES): Within the RIES a series of questions were raised which are duplicated below in the event they have not been identified earlier by the relevant parties. The numbering from the RIES is included within the question for ease of reference. In the event responses have already been prepared to answer these questions, it is not necessary to duplicate that response, but it would be helpful if confirmation is given where the response can be found.</p>	<p>Noted – please find the Environment Agency’s response to REIS question below.</p>

Ref No.	Question	EA response
Q5.1.3	<p>Q2.5.2 Can the EA comment on whether it considers that the use of Energy Recovery Facility (ERF) performance data 2021 Incineration Monitoring Reports is a reasonable proxy for the expected emissions' limits for Oxides of Nitrogen (NOx) and Ammonia (NH3) that would be established through a future environmental permitting process?</p>	<p>When permitting any energy from waste facility the Environment Agency will ensure that Best Available Techniques (BAT) are used. There are BAT Associated Emissions Limits for NOx that must be met as a minimum requirement. For NH3 we would expect a proposal to be justified as BAT in the context of the predicted impacts. However, to make any comment at this stage (i.e. prior to any permit determination process) could be considered 'pre-determination'. In this instance, we would refer the Examining Authority to the advice in Paragraph 4.10.3 of the Overarching National Policy Statement for Energy (EN-1) in that it should be assumed that the environmental regulatory regime will be properly applied and enforced by the Environment Agency.</p>
6	Climate Change	
Q6.0.1	<p>Following on from Q2.6.0.2 the EA advised at D7 <i>"we can now comment that carbon capture readiness, i.e. sufficient land and any known barriers, does not apply to energy from waste plants so the guidance we follow does not include them. Accordingly, we are unable to offer any assistance on these matters"</i></p> <p>The Department for Energy Security and Net Zero published its consultation on Decarbonisation Readiness on 13 March 2023 with the consultation closing on 24 April 2023. Within it, it proposes amongst other things, the following:</p> <ul style="list-style-type: none"> • Removing the 300 MW minimum capacity threshold at which the requirements apply. 	<p>The Environment Agency is unable to provide any further advice/comment on this matter as there is no guidance against which to assess the information provided by the Applicant.</p> <p>The Government position on Decarbonisation Readiness is yet to be finalised and if all the proposals are taken forward, this matter will be assessed as part of the Environmental Permit application if required at the time using available guidance.</p>

Ref No.	Question	EA response
	<ul style="list-style-type: none"> • Moving the Decarbonisation Readiness (DR) requirements from the planning consent process to the environmental permitting process. • Expanding the generation technologies in scope to include biomass (as well as biogas from anaerobic digestion), energy from waste (EfW), and combined heat and power (CHP) to support the rapid decarbonisation of the electricity system, complement existing technology-specific decarbonisation policies, and make the requirements simpler and more consistent across technology types. • Applying transitional arrangements to the implementation of DR, to ensure that policy is not changed for plants for which investment decisions have already been. This will ensure that investor confidence is preserved. <p>Including both new build and substantially refurbishing combustion power plants in scope and enabling existing combustion power plants to voluntarily apply for a DR permit.</p> <p>The consultation as drafted proposes that Decarbonisation Readiness (DR) as a requirement comes into force for newly built and substantially refurbishing plants from 1 July 2024. Going on to state <i>“This should allow sufficient time after the legislation has been made for the Environment Agency to carry out any further necessary engagement with</i></p>	

Ref No.	Question	EA response
	<p><i>stakeholders and publish any further guidance or supporting documents on the requirements, ahead of them coming into force."</i></p> <p>(i) As currently drafted, it would appear that the current proposal would be caught by this change in requirement, and it would therefore be helpful to understand the implications this may have for the proposed development if this change were introduced. The ExA would also find it of assistance if both the Applicant and the EA could respond to the following questions.</p> <p>(ii) Does the Applicant have anything further to add to the responses already provided to Q2.6.01 and Q2.6.02 in [REP6-032]?</p> <p>(iii) The Consultation referred to above follows a technical study undertaken on behalf of BEIS by AECOM dated 30 June 2022 available at carbon_capture_readiness_report.pdf (publishing.service.gov.uk) Can the EA provide any further advice in light of the Applicant's response to Q2.6.0.2 and the assessment information set out within the study?</p> <p>(iv) Can the EA advise if there is any reason to dispute the response provided by the Applicant to Q2.6.02?</p>	
Q6.0.2	<p>Environmental Permits/ Licences/ Permissions</p> <p>Can you advise whether there are any impediments that may stand in the way of</p>	<p>The Environment Agency can advise that the type and nature of the project is such that it should be capable of being adequately regulated under the Environmental Permitting regime, and it is not currently aware of anything that would preclude the grant of a permit, but</p>

Ref No.	Question	EA response
	granting any licence, permission or permit within your area of responsibility.	would also point out that its view could change depending on the content of the permit application when this is received.
17	Waste	
Q17.0.1	<p>Waste Capacity</p> <p>If it was demonstrated the proposed development were to create an excess capacity of energy from waste plants or there was a shortage of supply of waste for the generation of energy from waste either locally, regionally or nationally, is there any evidence which you can refer to that identifies at what level this may create an adverse effect on prevention, re-use or recycling, as expected within the waste hierarchy?</p>	<p>The Environment Agency is not able to direct the ExA to any evidence in relation to excess capacity but would refer back to its Deadline 6 submission [REP6-039] in respect of the information provided relating to the site operators Duty of Care and the duty of any waste holder to apply the waste hierarchy as required by Regulation 12 of the Waste (England and Wales) Regulations 2011. Consequently, there should be no expectation of an adverse effect on prevention, re-use or recycling.</p>