



Department for
Energy Security
& Net Zero

3-8 Whitehall Place
London
SW1A 2EG

www.gov.uk/desn

Energyinfrastructureplanning@energysecurity.gov.uk

North Lincolnshire Green Energy Park Limited
North Lincolnshire Council
Natural England
The Environment Agency

Your Ref: EN010116

Date: 08 December 2023

Dear Sir or Madam,

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by The North Lincolnshire Green Energy Park Limited (“the Applicant”) for an Order granting Development Consent for the proposed The North Lincolnshire Green Energy Park (“the Proposed Development”)

REQUEST FOR INFORMATION

1. Following completion of the Examination on 15 May 2023, the Examining Authority submitted a Report and Recommendation in respect of its findings and conclusions to the Secretary of State on 15 August 2023. On 15 November 2023 the statutory deadline for determining the application was extended to 15 March 2024.
2. There are issues on which the Secretary of State for Energy Security & Net Zero (“the Secretary of State”) requests updates and/or further information from the Applicant and consultees.

Incineration capacity and the waste hierarchy

3. The Secretary of State notes Draft EN-1 paragraphs 3.3.20 and 5.15.7, and draft EN-3 paragraphs 3.7.7 and 3.7.29 state how an overcapacity of energy from waste treatment should be avoided at national and local scales. Development Consent was granted for the Boston Alternative Energy Facility on 05 July 2023, located in the same waste catchment area as the Proposed Development. The Secretary of State also notes that the Applicant references the eighth annual ‘UK Energy from Waste Statistics – 2021’ report published by Tolvik in May 2022. The ninth annual report was published in May 2023¹.

The Applicant is requested to explain whether it considers an update to its assessment of waste availability and conformity with the waste hierarchy is required in light of the Boston Alternative Energy Facility and the most recent Tolvik report, and if so to provide updated assessments as required.

¹ <https://www.tolvik.com/published-reports/view/uk-energy-from-waste-statistics-2022/>

4. The Secretary of State notes that the Applicant's own forecasts [REP6-032] predict a base-case capacity gap of 16 kilotons per annum (ktpa) in the Yorkshire & Humber waste catchment region and an overcapacity of 1,841 ktpa in England by 2030. The contribution of the Proposed Development could result in overcapacity by 2030 at both spatial scales.

In light of these forecasts, **the Applicant** is requested to provide further justification and reasoning to support its assertion [REP8-020] that there "*will not be an excess of energy from waste capacity as a result of the Proposed Development, at a local, national or regional level*".

5. EN-3 paragraph 2.5.70 states that the Secretary of State should be satisfied that the Proposed Development is in accordance with the waste hierarchy and would be of an appropriate type and scale as to not prejudice the achievement of local or national waste management targets. Where there are concerns in terms of a possible conflict, the Applicant should provide evidence as to "*why this is not the case or why a deviation from the relevant waste strategy or plan is nonetheless appropriate and in accordance with the waste hierarchy*". (emphasis added).

The Applicant is requested to provide further evidence and reasoning beyond that stated in [REP6-032] that: "some resilience is necessary in the system to ensure as least waste as possible goes to landfill."

6. The Secretary of State notes that the Applicant [REP3-040] considers the capacity gap will gradually close at the national and local level by 2035 if the government's recycling targets are met, but recent plateauing of recycling rates at around 42% means there is significant uncertainty as to whether these targets will be met. The Applicant [REP6-032, Annex A] considered that the government targets on waste reduction and recycling would be met.

The Applicant is requested to clarify its position with regards to whether it considers that the capacity gap will close at the national and local level by 2035. **North Lincolnshire Council (NLC)** is also invited to comment on the Applicant's future projection of recycling targets, including whether it considers there will be an overcapacity of Energy from Waste (EfW) based on the Applicant's assessments, and whether it considers the Applicant's assumption (in [REP6-032]) that recycling targets would be met when forecasting is appropriate.

7. **The Applicant** is requested to explain whether its projections that the Proposed Development does not result in over-capacity of EfW waste treatment at a national or local level [REP3-040] is based on a best, worst or median scenario.
8. **The Applicant** is requested to respond to the Environment Agency's comments [REP6-040] that whilst the European Waste Catalogue (EWC) codes on an environmental permit would limit the types of waste the ERF may receive, it does not provide certainty that the same waste would be unsuitable for treatment at an earlier stage in the waste hierarchy. The Environment Agency also states [REP9-046] that it is the relevant planning authority that is responsible for driving waste generated in a given area up the waste hierarchy. **The Applicant** is requested to respond to the Environment Agency's comments and to confirm which EWC codes are relevant to the waste the Proposed Development would treat and what

proportion of the landfill waste is/would be comprised of waste with these EWC codes.

9. **The Applicant** is requested to confirm and evidence what long-term agreements it has in place with waste suppliers to ensure long term RDF supply.
10. The Secretary of State notes the Applicant considers that if a lower recycling rate for household waste is assumed compared with its conservative base case forecast [REP6-032], with recycling rates increasing from the current level of around 42% to 55% in 2035 and only reaching 60% in 2042, compared with the government target of 65%, this would lead to 2,500 ktpa more RDF than the figure in Table 1 by 2040.

The Applicant is requested to clarify if this means that the increase of 2,500 ktpa RDF would be as a result of the waste that the Council (NLC and/or neighbouring local authorities) was unable to treat being incinerated by the Proposed Development (rather than going to the landfill) and if so, what proportion of the total waste being incinerated by the Proposed Development this would comprise.

11. The Secretary of State notes that 125 ktpa of bottom ash (a combustion residue) and 5 ktpa of hazardous flue gas residues will be used in the concrete block making facility (CBMF) in order to avoid it needing to be disposed of as waste [REP3-040].

The Applicant is requested to confirm that the hazardous flue gas residue will not contain fly ash and that it complies with paragraph 2.5.73 of the designated NPS EN-3 which states that ‘...the two residues from waste combustion generating stations cannot be mixed; they must be disposed of separately, under different regimes.’ The Applicant should note that the same substantive requirement is also included in draft NPS EN-3 in paragraph 3.7.49. **The Environment Agency** and **the Applicant** are requested to confirm that the use of hazardous flue gas residues and bottom ash in the CBMF is a process that requires an Environmental Permit. **The Environment Agency** is also invited to confirm if there is any reason why a permit would not be granted at this time.

Risby Warren Site of Special Scientific Interest (SSSI)

12. **Natural England** is invited to advise on the suitability of the Risby Warren SSSI Mitigation and Enhancement Strategy, provided by the Applicant in Appendix 2 of its response² to the Secretary of State’s first request for further information. Specifically, **Natural England** is invited to advise whether the Strategy is sufficient to mitigate and offset any adverse impacts that may result from the Proposed Development.
13. **North Lincolnshire Council** and **Natural England** are invited to comment on the Applicant’s proposal to utilise a Section 106 agreement under the Town and Country Planning Act 1990 to secure the abovementioned strategy.

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010116/EN010116-001404-9.44%20Applicant's%20Response%20to%20SoS.pdf>

14. The **Applicant** is requested to provide an update on the Section 106 agreement with the tenant farmer and relevant landowner to provide mitigation for adverse effects at Risby Warren and for the **Applicant, Natural England** and **North Lincolnshire Council** to provide their views on incorporating the agreement within the DCO in the following form:

Risby Warren SSSI

1. *The undertaker and [X] (“the parties”) must implement the measures set out in [the agreement], dated [date].*
2. *The [agreement] referred to in paragraph (1) may be varied by joint agreement of the parties only with the consent of the Secretary of State, following consultation by the Secretary of State with Natural England.*

Air quality modelling and Environmental Permit

15. The Applicant provided air quality modelling using a Reasonable Operating Case (ROC) in Appendix A of ES Chapter 10 [AS-026]. In response to the Secretary of State’s first request for information, the Applicant² stated that: *“part of the rationale for undertaking an assessment of the ROC was to provide Natural England with some assurance that the Environmental Permitting process would lead to an operational plant that will have effects on protected sites that are reduced to levels below those secured by the DCO with the reasonable worst-case assessment, and which are acceptable.”*

The Environment Agency is invited to comment on this statement and the Applicant’s response² (Pages 12 to 17). **The Environment Agency** is invited to confirm whether it considers the use of the ROC is an acceptable basis for the assessment of operational emissions to air and of the consequent impacts on SSSIs. The Secretary of State notes that the Applicant has not yet applied for necessary Environmental Permits in accordance with the good practice recommended in Planning Inspectorate Advice Note 11 Annex D³. Noting this, and to provide the Secretary of State with the necessary comfort (see draft NPS EN-1 paragraphs 4.11.15 and 4.11.16), **the Environment Agency** is invited to advise whether it is satisfied that potential operational emissions and effects on SSSIs resulting from the Proposed Development can be adequately regulated and mitigated via the Environmental Permitting regime.

Protected Species (PS) licences

16. ES Chapter 10 [AS-026] concludes that there is likely to be significant residual adverse effects at a site level on badger and construction work is expected close to badger setts.

The Applicant is requested to provide an update on securing a PS licence for badger. Planning Inspectorate Advice Note 11 Annex C⁴ provides advice to

³ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/an11-annexd/>

⁴ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/an11-annexc/>

Applicants on engaging with Natural England and securing relevant PS licences as relevant to Nationally Significant Infrastructure Projects.

Natural England is invited to comment on the requirements for a PS licence for badger and, if possible at this time, whether it sees any reason why a licence would not be able to be granted.

17. ES Chapter 10 assumes that great crested newt (GCN) are assumed to be present on site and states that construction works will be carried out under a GCN PS licence.

The Applicant is requested to provide an update on securing a PS licence for GCN.

Natural England is invited to comment on the requirements for a PS licence for GCN and, if possible at this time, whether it sees any reason why a licence would not be able to be granted.

Habitats of Principal Importance (HPI)

18. ES Chapter 10 concludes there are likely to be significant residual adverse effects at site level on lowland dry acid grasslands and lowland calcareous grasslands HPIs. The Secretary of State notes that the final Statement of Common Ground with North Lincolnshire Council states all ecology matters as agreed, but that it does not specifically reference HPIs. In light of North Lincolnshire Council's comments in [REP1-019] and [REP6-037] regarding HPIs, **North Lincolnshire Council** is invited to confirm whether it considers the Applicant's response [REP6-032 page 12] and mitigation strategies in the outline Landscape and Biodiversity Management and Monitoring Plan (LBBMP) [REP2-018] are sufficient to resolve its queries.

19. **Responses to the requested information should be submitted by email only to: NorthLincolnshireGreenEnergyProject@planninginspectorate.gov.uk by 23.59 on 12 January 2024.**

20. Responses will be published on the North Lincolnshire Green Energy Park project page of the National Infrastructure Planning website: <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/north-lincolnshire-green-energy-park/> as soon as possible after **12 January 2024.**

21. This letter is without prejudice to the Secretary of State's consideration of whether to grant or withhold development consent for the Proposed Development or any part of the project. Nothing in this letter is to be taken to imply what the eventual decision might be or what final conclusions the Secretary of State may reach on any particular issue which is relevant to the determination of the application.

Yours faithfully



John Wheadon

Head of Energy Infrastructure Planning Delivery

Energy Infrastructure Planning